11-18-83
Vol. 48 No. 224
Pages 52429-52564

federal register

Friday
November 18, 1983

Selected Subjects

CONTINUED INSIDE

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

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

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

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

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

Selected Subjects

Contents

Federal Register
Vol. 48, No. 224
Friday, November 18, 1983

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
907 52466
910 52429
1131 52429
Proposed Rules:
434 52467
438 52471

8 CFR
3 52432
214 52432

9 CFR
Proposed Rules:
201 52474
203 52474

11 CFR
114 52432

12 CFR
Proposed Rules:
701 52475

14 CFR
Proposed Rules:
Ch. I 52480
1214 52480

17 CFR
270 52433

18 CFR
Proposed Rules:
271 (2 documents) 52482, 42483

19 CFR
12 52435

20 CFR
626 52437

21 CFR
182 (5 documents) 52438–52445
184 (6 documents) 52438–52447
510 52448

26 CFR
Proposed Rules:
1 52484

28 CFR
0 52449

36 CFR
Proposed Rules:
7 52484

38 CFR
Proposed Rules:
18 52485

40 CFR
52 (2 documents) 52450, 52451
Proposed Rules:
52 (2 documents) 52491

47 CFR
63 52452
87 52464
Proposed Rules:
1 52492
61 52492

49 CFR
1118 52465
1162 52465
1163 52465

Rules and Regulations

Federal Register
Vol. 48, No. 224
Friday, November 18, 1983

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 438]

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 210,000 cartons during the period November 20–26, 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: November 20, 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 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 November 15, 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 910.738 is added as follows:

§ 910.738 Lemon Regulation 438.

The quantity of lemons grown in California and Arizona which may be handled during the period November 20, 1983, through November 26, 1983, is established at 210,000 cartons.

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

Dated: November 17, 1983.

Russell L. Hawes,

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

[FR Doc. 83-31142 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1131

[Docket No. AO-271-A24]

Milk in the Central Arizona Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action reduces the pooling standard for a cooperative association's manufacturing plant and adopts provisions that would not pool milk received at pool plants from dairy farmers who are primarily associated with nonfederally regulated markets. Payments from pool proceeds will be made to producers who are primarily associated with this marketing area if a pool plant operator refuses to accept their milk and such milk is marketed by the dairy farmer directly to nonpool plants and is used for manufacturing purposes.

The amendments to the order are based on industry proposals considered at a public hearing held in November 1982 in Phoenix, Arizona. The changes are necessary to reflect current marketing conditions and to insure orderly marketing conditions in the regulated area. A cooperative association representing more than two-thirds of the dairy farmers who supply milk for the market has approved the issuance of the amended order.

EFFECTIVE DATE: December 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447–2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued October 20, 1982; published October 25, 1982 (47 FR 47259).

Suspension Order: Issued April 27 1983; published May 2, 1983 (48 FR 19699).

Recommended Decision: Issued June 28, 1983; published July 5, 1983 (48 FR 30641).

Suspension Order: Issued July 21, 1983; published July 26, 1983 (48 FR 33849).

Suspension Order: Issued September 23, 1983; published September 29, 1983 (48 FR 44460).

Final Decision: Issued October 6, 1983; published October 12, 1983 (48 FR 46343).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Central Arizona order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* 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), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Arizona marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1983. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Deputy Administrator, Marketing Program Operations, was issued June 28, 1983 (48 FR 30641), and the decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued October 6, 1983 (48 FR 46343). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1983, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interest of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1131

Milk marketing order, Milk, Dairy products.

Order Relative To Handling

It is therefore ordered. That on and after the effective date hereof, the handling of milk in the Central Arizona marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended as follows:

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

§ 1131.7 [Amended]

1. In 7 CFR 1131.7(c), remove the provision "65 percent or more" and substitute therefore the provision "50 percent or more."

2. In § 1131.12, a new paragraph (b)(4) is added to read as follows:

§ 1131.12 Producer.

* * * * *

(b) * * *

(4) Any person whose milk is received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant, unless 50 percent or more of the milk production from the same farm is producer milk under this part during the current month and each of the 2 immediately preceding months (or would have been producer milk in each of the 2 immediately preceding months except for the operation of this provision): *Provided,* That this provision shall not be applicable until the third month following the effective date of this amended order.

3. A new § 1131.21 is added to read as follows:

§ 1131.21 Associated producer.

"Associated producer" is any person (other than a producer-handler or a dairy farmer for other markets), whose milk is received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant subject to the following conditions:

(a) Fifty percent or more of the milk production from the same farm is producer milk under this part during the current month and each of the 2 immediately preceding months (or would have been producer milk in each of the 2 immediately preceding months except for the application of § 1131.12(b)(4));

(b) Milk produced on such farm must meet the requirements of § 1131.12(a)(1) or (2); and

(c) Such person shall certify in writing to the market administrator on or before the first day after each month in which his milk is not accepted or accounted for by a handler at a pool plant, that he will deliver his milk to such pool plant and does so deliver upon request from the handler.

4. A new § 1131.22 is added to read as follows:

§ 1131.22 Associated producer milk.

"Associated producer milk" means the milk produced by an associated producer that is not accepted or accounted for by a handler at a pool plant and is diverted by the associated producer to a nonpool plant (except a producer-handler plant or an other order plant) subject to the following conditions:

(a) Milk so diverted shall not qualify as associated producer milk unless the operator of the nonpool plant maintains books and records showing the

utilization of all skim milk and butterfat received at the plant which are made available if requested by the market administrator. Milk so diverted shall qualify as associated producer milk to the extent such milk is used for manufacturing purposes at the nonpool plant (classified as Class III milk, or Class II milk pursuant to § 1131.42(d)(2)(vi)).

(b) During the months of May through November the quantity of associated producer milk receipts at nonpool plants from such farm shall not exceed 8 days' production less the number of days' production that is diverted by a handler from such farm to nonpool plants.

5. A new § 1131.33 is added to read as follows:

§ 1131.33 Associated producer reports.

Each associated producer, or a cooperative association on his behalf, shall submit in the manner prescribed by the market administrator:

(a) On or before the 7th day after each month, a statement of the quantity of milk which the associated producer diverted to nonpool plants (except a producer-handler plant or an other order plant) for use for manufacturing purposes in such month; and

(b) On or before the 10th day after each month, delivery receipts or other evidence satisfactory to the market administrator verifying the quantity of his milk sold for manufacturing purposes in such month.

6. Section 1131.42(d)(2)(vi) is revised to read as follows:

§ 1131.42 Classifications of transfers and diversions.

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products received at the nonpool plant pursuant to § 1131.22 or from pool plants and other order plants shall be assigned, pro rata among such sources of milk, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

* * * * *

7. In § 1131.44(a)(7), a new paragraph (vii) is added to read as follows:

§ 1131.44 Classification of producer milk.

* * * * *

(a) * * *

(7) * * *

(vii) Receipts of milk from a dairy farmer pursuant to § 1131.12(b)(4);

* * * * *

8. In § 1131.60, paragraph (d) is revised to read as follows:

§ 1131.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7) (i) through (iv) and (vii) and the corresponding step of § 1131.44(b), excluding receipts of bulk fluid cream products from an other order plant;

* * * * *

9. Section 1131.61 is revised to read as follows:

§ 1131.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1131.60 for all handlers who filed the reports prescribed by § 1131.30 for the month and who made the payments pursuant to §§ 1131.71 and 1131.73 for the preceding month;

(b) Add an amount equal to the value of the associated producer milk for the month at the Class III price for milk of 3.5 percent butterfat content;

(c) Add an amount equal to the total value of the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1131.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk;

(2) The total hundredweight of associated producer milk; and

(3) The total hundredweight for which a value is computed pursuant to § 1131.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

10. Section 1131.72 is revised to read as follows:

§ 1131.72 Payments for the producer-settlement fund.

(a) On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1131.71(a)(2) exceeds and amount computed to § 1131.71(a)(1).

(b) On or before the 15th day after the end of each month the market administrator shall make payment to each associated producer, or to a cooperative association on his behalf, an amount obtained by multiplying the quantity of associated producer milk of such associated producer for the month by the difference between the uniform price and the Class III price. Any over-payment to an associated producer may be offset by a payment reduction to such associated producer from the market administrator in the following month or, shall be remitted by such associated producer to the producer-settlement fund on or before the next date for making payments under this provision.

(c) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

11. Section 1131.77 is revised to read as follows:

§ 1131.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred. Such adjustments shall apply in the same manner with respect to an associated producer.

12. Section 1131.85 is revised to read as follows:

§ 1131.85 Assessment for order administration.

(a) As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(1) Producer milk (including such handler's own production);

(2) Other source milk allocated to Class I pursuant to § 1131.44(a) (7) and

(11) and the corresponding steps of § 1131.44(b), except such other source milk that is excluded from the computations pursuant to § 1131.60 (d) and (f); and

(3) Class I milk disposed of from a partially regulated distributing plant as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1131.76(a)(2).

(b) The market administrator shall deduct the same rate per hundredweight prescribed in paragraph (a) of this section from payments to associated producers pursuant to § 1131.72(b) to cover each such associated producer's pro rata share of the expense of administration of the order.

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

Effective date: December 1, 1983.

Signed at Washington, D.C. on November 14, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-31129 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 3

[AG Order No. 1035–83]

Forwarding of Record on Appeal

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: Under the present provisions of 8 CFR 3.5, if an appeal is taken to the Board of Immigration Appeals from a decision by an Immigration and Naturalization Service District Director, the record must be forwarded to the Board for adjudication of the appeal. This final rule permits District Directors to reopen and reconsider their decision subsequent to a party's filing of an appeal to the Board where, upon review of the matters submitted on appeal, it is concluded that the benefits sought by the appealing party should have been granted. Such reconsideration is only authorized where the District Director concludes that the benefit sought should have been granted and the new decision is served on the appealing party within 45 days of receipt of any briefs or the expiration of the time allowed for such submission. In any case in which a new decision granting relief is not served within 45 days or in which the appealing party does not agree that the new decision disposes of the matter, the record must be immediately forwarded to the Board. The final rule should permit a prompt disposition of cases to the benefit of all concerned where the District Director, subsequent to an appeal, concludes that favorable action is warranted. Additionally, unnecessary Board consideration of appeals in such cases can be eliminated.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: David B. Holmes, Chief Attorney Examiner, Board of Immigration Appeals (703/756–6170).

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 38847–38848 of the **Federal Register** of August 26, 1983, and initiated comments for 30 days ending September 25, 1983. The Board received two comments, both favorable. The American Immigration Lawyers Association endorsed both the concept and specific language of the proposed rule and urged its final promulgation. A private attorney supported the rule, but recommended various "clarifications." The rule has been revised to require the "immediate," rather than "prompt," forwarding of a record of proceeding to the Board if the District Director has not served a new decision within 45 days or if the appealing party does not agree the new decision disposes of the case. This latter circumstance should occur rarely, if at all, as a District Director may only enter a new decision if the decision will "grant the benefit which has been requested. . . ." However, if such a case arises, the record of proceedings would include the appealing party's statement or brief as to why the new decision does not dispose of the matter.

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Aliens.

PART 3—[AMENDED]

Accordingly, 8 CFR 3.5 is revised to read as follows:

§ 3.5 Forwarding of record on appeal.

If an appeal is taken from a decision, as provided in this chapter, the entire record of the proceeding shall be forwarded to the Board by the office having administrative jurisdiction over the case upon timely receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs. A district director need not forward an appeal to the Board, but may reopen and reconsider any decision made by the director when an appeal to the Board has been filed, if the district director's new decision will grant the benefit which has been requested; provided that the district director's new decision is served on the appealing party within 45 days of receipt of any briefs or upon expiration of the time allowed for the submission of any briefs. If the district director's new decision is not served within these time limits or the appealing party will not agree that the new decision disposes of the matter, the record of proceeding shall be immediately forwarded to the Board.

(8 U.S.C. 1103, 1362)

Dated: November 3, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-30994 Filed 11-17-83; 8:45 am]

BILLING CODE 4410-01-M

8 CFR Part 214

Nonimmigration Classes; Temporary Alien Employees; Correction

Correction

In FR Doc. 83–30168 appearing on page 51283 in the issue of Tuesday, November 8, 1983, make the following correction:

Under **SUPPLEMENTARY INFORMATION**, the bold type caption now reading **"§ 204.2 [Corrected]"** should have read **"§ 214.2 [Corrected]"**.

BILLING CODE 1505-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1983–28]

Nonpartisan Communications by Corporations and Labor Organizations

Correction

In FR Doc. 83–29643 beginning on page 50502 in the issue of Wednesday, November 2, 1983, make the following corrections.

On page 50507, first column, § 114.4, paragraph (b)(5)(i)(A), first line, "the" should read "The"; second column, first line, "voters" should read "voter"; third column, paragraph (c)(3), third line, remove the word "by" and "persons' should read "person".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release Nos. 33-6498; IC-13624 (S7-978)]

Registration of an Indefinite Number of Investment Company Securities

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rule.

SUMMARY: The Commission is today adopting two amendments to rule 24f-2 (§ 270.24f-2) under the Investment Company Act of 1940. Rule 24f-2 covers registration under the Securities Act of 1933 of an indefinite number of certain investment company securities. One amendment requires any issuer who has filed a declaration pursuant to rule 24f-2 to include a statement to that effect on the facing sheet of any post-effective amendment to its registration statement, and to include therein either the date upon which the issuer filed, or intends to file, the notice required by rule 24f-2, or a statement that the issuer need not file a notice for the prior fiscal year because it has not sold any securities in reliance on that declaration during that fiscal year. The other amendment modifies the consequences for failure to file on time the notice required by rule 24f-2 so that the declaration filed pursuant to the rule would be terminated if the notice was not filed on time, but the registration statement containing the declaration would remain in effect. These two amendments will improve the ability of the Commission issuers to monitor the timeliness of rule 24f-2 notices while making less harsh the consequences of failures to file such notices on time.

DATE: These amendments will be effective December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202) 272-2115, Office of Disclosure Legal Services, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting two amendments to rule 24f-2 [17 CFR 270.24f-2] under the Investment Company Act of 1940 (the "1940 Act") [15 U.S.C. 80a-1 *et seq.*]. The first requires any issuer who has filed a declaration pursuant to that rule to include on the facing sheet of any post-effective amendment to its registration statement a statement that the issuer has filed a declaration pursuant to rule 24f-2 and the date upon which the issuer filed, or intends to file, its notice as required by that rule (the "Notice"), or a statement that the filing of such a Notice is unnecessary because the issuer has not sold any securities pursuant to rule 24f-2 during the prior fiscal year.[1] The second amendment modifies the consequences for failure to file on time the Notice required by rule 24f-2 so that the declaration pursuant to that rule would be terminated if the Notice was not filed on time, but the registration statement containing the declaration would remain in effect. This change permits an issuer that failed to file a rule 24f-2 Notice on time and sold securities thereafter to use rule 24f-1 [17 CFR 270.24f-1] to register retroactively securities sold up to six months prior to the filing of its rule 24f-1 notification.

Background

Rule 24f-2 was promulgated by the Commission in 1977[2] pursuant to its authority under section 24(f) of the 1940 Act [15 U.S.C. 80a-24(f)] to allow certain types of registered investment companies to register an indefinite number or amount of securities under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (the "1933 Act").[3] Rule 24f-2 permits face-amount certificate companies, open-end management companies, and unit investment trusts ("eligible companies") to register an indefinite number or amount of securities under the 1933 Act by including a declaration to that effect in either the eligible company's original registration statement or any post-effective amendment to its registration statement, and by paying a non-refundable fee of $500.00 to the Commission. An eligible company with an effective declaration pursuant to rule 24f-2 that has sold any securities pursuant to that declaration[4] must file the Notice prescribed by paragraph (b)(1) of rule 24f-2 within six months after the close of the company's fiscal year. The Notice must be accompanied by the appropriate registration fee pursuant to section 6(b) of the 1933 Act [15 U.S.C. 77f(b)].[5] If the issuer fails to file its required Notice on time paragraph (b)(2) of rule 24f-2 presently provides that the issuer's registration statement would then terminate and the issuer must discontinue all sales of securities pursuant to that registration statement.

On May 26, 1983, the Commission proposed for comment two amendments to rule 24f-2 [17 CFR 270.24f-2]. In the proposing release, the Commission expressed the belief that (i) the proposed amendment requiring additional disclosure on the cover page of any post-effective amendment to a registration statement subject to a declaration pursuant to Rule 24f-2 is necessary to help issuers avoid inadvertent failures to file the required Notices and to enable the staff of the Commission to monitor industry compliance in that respect; and (ii) the proposed amendment modifying the consequences for failing to file a rule 24f-2 Notice on time relieves a result which is too harsh, at least in cases where the delinquency is not unduly prolonged.

After considering the comment received, the Commission is adopting these amendments to rule 24f-2 as proposed.

Discussion of Comments Received

The Commission received seven comment letters in response to the release proposing these two amendments to rule 24f-2.[6] The majority of the commentators supported the proposed amendments. Several commentators also provided comment on issues concerning rule 24f-2 for which no amendment had been proposed. The latter comments will be discussed following our discussion of the comments received on the proposed amendments.

Additional Information on the Facing Sheet

The proposed amendment to paragraph (a)(1) of rule 24f-2 would require an issuer who has filed a declaration pursuant to rule 24f-2 to include a statement to that effect on the facing sheet of any post-effective amendment to its registration statement,

---

[1] Securities Act Release No. 6467 (May 26, 1983) [48 FR 25175 (June 6, 1983)].

[2] Securities Act Release No. 5681 (November 3, 1977) [42 FR 58400 (November 9, 1977)].

[3] For a further discussion of the legislative history surrounding section 24(f) [15 U.S.C. 80a-24(f)], see Securities Act Release No. 6468 (May 26, 1983) [48 FR 25220 (June 6, 1983)].

[4] Securities Act Release No. 6467 (May 26, 1983) [48 FR 25175 (June 6, 1983)] adopted at the same time these amendments were proposed made a technical amendment to paragraph (b)(2) of rule 24f-2 to provide that eligible companies that did not sell any securities pursuant to a rule 24f-2 declaration during any fiscal year need not file the Notice required by rule 24f-2 for that fiscal year.

[5] *See* Securities Act Release No. 6468 *supra* for a full discussion of the Notice requirements and the provisions of paragraph (c) of rule 24f-2 which permit eligible companies that file within two months after the end of their fiscal year to pay registration fees based on the net amount of securities sold during the prior fiscal year.

[6] These commentators can be divided into the following four categories: (i) Two commentators who represent trade associations; (ii) two commentators who are investment advisers or fund managers; (iii) two commentators from the securities bar; and (iv) one commentator representing a mutual fund.

and include therein either the date upon which the issuer has filed, or intends to file, the required Notice or a statement that the issuer need not file a Notice for the prior fiscal year because it has not sold any securities in reliance on that declaration during that fiscal year.

Only one commentator opposed the adoption of the proposed amendment to paragraph (a)(1) of rule 24f–2. That commentator argued that the "vast majority" of issuers relying on rule 24f–2 have no problem complying with the Notice requirements presently imposed by that rule. This commentator argued that requiring all of these issuers to state the date they filed, or intend to file, their Notices because of a few instances where an issuer inadvertently failed to file its Notice was "inappropriate" and of questionable value in preventing inadvertent failures to file such Notices. The remaining six commentators, however, generally supported the proposed amendment. Three commentators asserted that the statement to be included on the facing page of the registration statement would provide a good "safety mechanism" to avoid inadvertent failures to file the required Notices. Another commentator who supported the proposed amendment suggested a modification of the statement so that the date given would be the date "or before which" a Notice would be filed, apparently out of concern that the designated filing date would become a required filing date.

The Commission agrees with the majority of the commentators on this proposed amendment. As stated in the proposing release, the Commission believes that "this amendment is necessary to help issuers avoid inadvertent failures to file the required Notices and to enable its staff to monitor industry compliance in that respect."[7] The Commission further believes that this requirement will impose a minimal burden on eligible companies since it requires that such companies supply, in a filing required annually, information which is readily available to them. The Commission does not believe that there is any reason to change the requirement to one for stating the date "on or before which" Notices will be filed. The use of a specific date would not change the actual filing requirements for the Notices, which are clearly specified in the rule; but would have the advantage of focusing a registrant's attention on a realistic filing date rather than merely calling attention to the last possible filing date. Therefore, the Commission is adopting the amendment as proposed.

[7] Securities Act Release No. 6468 *supra*.

Modification of Consequences for Failure To File Notices on Time

The proposed amendment to paragraph (b)(2) of rule 24f–2 would modify the consequences for failure to file on time the Notice required by rule 24f–2 so that the declaration filed pursuant to the rule would be terminated if the Notice was not filed on time. The issuer's registration statement, however, would remain in effect.

All seven commentators supported this amendment to rule 24f–2. Five commentators supported the amendment as proposed, and three of them specifically stated that the proposed modification of the consequences for failure to file Notices on time was more appropriate or equitable than the present consequences for failure to file Notices on time.

Two commentators suggested certain modifications of rule 24f–2(b)(2) to clarify the relationship of that rule to rule 24f–1.[8] One commentator suggested that the Commission should explicitly provide in the rule that securities sold during: (1) The prior fiscal year as to which the required Notice was not filed on time; and (2) the period after the close of such fiscal year but prior to the termination of the fund's rule 24f–2 declaration would not be considered to be in excess of the number of shares included in the fund's registration statement for purposes of the retroactive registration provisions of rule 24f–1. In the Commission's view, such a result would obtain without any change in the proposed rule. Paragraph (b)(2) of rule 24f–2, as proposed, requires that an issuer who has failed to file the required Notice or Notices on time must file "as soon as practicable" a Notice for the prior fiscal year as to which the required Notice was not filed on time and a separate Notice for the six months after the close of such fiscal year but prior to the termination of the fund's rule 24f–2 declaration. The filing of Notices pursuant to rule 24f–2 must include, among other things, the appropriate fees as calculated under the 1933 Act. The filing of such Notices and the payment of registration fees pursuant to rule 24f–2 would make definite the registration of these securities, and they would not be deemed to be in excess of the number of shares included in the fund's registration statement for purposes of rule 24f–1. On the other hand, as specifically provided in rule 24f–2(b)(2), shares sold after the termination of the rule 24f–2 declaration would be deemed to be shares sold in excess of the number registered.

Another commentator suggested that the Commission modify rule 24f–2(b)(2) by specifying that shares sold "within six months" after the termination of a rule 24f–2 declaration would be deemed to be sold in excess of the number registered. The Commission has determined that this suggested modification would not be appropriate. Rule 24f–1 permits issuers to retroactively register securities sold within six months prior to the filing of the rule 24f–1 notification. Sales of securities within six months after termination of the rule 24f–2 declaration may or may not be within six months prior to the filing of the rule 24f–1 notification by the issuer. For securities sold more than six months before a rule 24f–1 notification is filed, retroactive registration pursuant to that rule is unavailable.

Modification of the "Net Sales" Provision

Paragraph (c) of rule 24f–2 currently provides that, if an issuer that has sold securities pursuant to a declaration under rule 24f–2 files the required Notice not later than two months after the close of the prior fiscal year, the issuer need only pay registration fees for the sales price of securities sold, less the price of all securities redeemed or repurchased during the prior fiscal year. Although the Commission did not propose an amendment to this net sales provision, two commentators suggested modifications to extend the period of time during which an issuer may file a Notice and take advantage of the savings provided by the net sales provision.

One commentator suggested that the time period during which an issuer may file a Notice and utilize the net sales provision should be increased to six months after the end of the issuer's fiscal year. That commentator argued that the practical result of the present time limit on a fund's ability to use the rule's net sales provision is to "require" issuers to file their Notices within two months after the close of the prior fiscal year even though the rule gives issuers six months after the end of the fiscal year to file their Notices on time.[9] The

[8] Rule 24f–1 under the 1940 Act permits eligible companies to register retroactively securities sold within six months before the filing of a notification of election under rule 24f–1 if the conditions of the rule are followed including the payment of a fee equal to three times the 1933 Act registration fee for those securities.

[9] One commentator suggested that the rule be modified to lengthen this period of time from six to twelve months for filing the Notice on time. The Commission believes that six months is sufficient time to collect accurate information for the filing and has not adopted the twelve and month period.

other commentator suggested that the time period be increased to four months after the end of the issuer's fiscal year. That commentator argued that this deadline would correspond to the "normal" deadline for funds filing post-effective amendments to their registration statements under the 1933 Act. In addition, that commentator asserted that increasing the time period to four months "would remove one more area where inadvertent and harmless human failure creates an overly heavy penalty for the registrant."

The Commission continues to believe, as stated in the release initially adopting rule 24f-2,[10] that only those companies filing their notices within two months should be permitted to take advantage of a reduced registration fee. The two month period will allow issuers to have sufficient time in which to receive the results of the fund's audit prior to filing their required Notices. Moreover, the Commission's experience with this rule shows that effective operation of the rule is best served if funds give prompt attention to their requirements. Accordingly, the Commission has not modified the filing requirement relating to the net sales provision.

Summary of Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the amendments to rule 24f-2 adopted herein. The analysis notes that the first amendment requires certain registered investment companies to indicate on the facing sheet of any post-effective amendment to their registration statements the fact that they have registered an indefinite number of securities under the Securities Act of 1933 and the date they filed or intend to file the notice required by rule 24f-2. The second amendment modifies rule 24f-2 so that only an issuer's declaration pursuant to the rule would terminate if the issuer failed to file on time the notice required by the rule. The object of the amendments is to monitor compliance with the filing requirements of rule 24f-2 and to modify a harsh remedy.

A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Gregory K. Todd, Esq., Office of Disclosure Legal Services, Securities and Exchange Commission, (202) 272-3014, Room 5128, 450 Fifth Street, NW, Washington, D.C. 20549.

Statutory Authority

The Commission adopts these amendments to rule 24f-2 pursuant to section 24(f) of the 1940 Act [15 U.S.C. 80a-24(f)].

[10] Securities Act Release No 5881, *supra*.

Conclusion

Based on the foregoing, the Commission has determined to adopt the two amendments as proposed.

List of Subjects in 17 CFR 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Amendments to Part 270

The Commission is adopting amendments to Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

By revising paragraphs (a)(1) and(b)(2) of § 270.24f-2 to read as follows:

§ 270.24f-2 Registration under the Securities Act of 1933 of an indefinite number of certain investment company securities.

(a)(1) A face amount certificate company or an open-end management company or unit investment trust may, subject to the provisions of this section, elect to register an indefinite number or amount of securities under the Securities Act of 1933 by including on the facing sheet of its registration statement a declaration that an indefinite number or amount of its securities is being registered by such registration statement, or if a registration statement under the Securities Act of 1933 is in effect as to such securities by amending such registration statement on the facing sheet to declare that to the number or amount of securities of the same class or series presently registered is added an indefinite number or amount of such securities. Such declaration shall take effect when the registration statement or post-effective amendment in which it is included becomes effective. The issuer shall place on the facing sheet of any post-effective amendment to the registration statement filed after the issuer has made a declaration pursuant to this paragraph (a)(1) a statement to the effect that the issuer has registered an indefinite number or amount of securities under the Securities Act of 1933 pursuant to this section, and the date on which the Rule 24f-2 Notice for the issuer's most recent fiscal year was filed or will be filed, or a statement that pursuant to paragraph (b)(2) the issuer need not file a Rule 24f-2 Notice because it did not sell any securities pursuant to such declaration during the most recent fiscal year.

* * * * *

(b) * * *

(2) If the Rule 24f-2 Notice is not filed within the time specified in paragraph (b)(1), the declaration filed pursuant to paragraph (a)(1) of this section shall be deemed to be terminated on the next business day, and the registrant shall discontinue all sales of securities pursuant to such declaration. Separate notices as described in paragraph (b)(1) shall be filed as soon as practicable after such termination with respect to sales of securities made pursuant to the declaration during (i) the fiscal year as to which such notice was not timely filed, and (ii) the period after the close of such fiscal year but before such declaration was terminated. Securities sold after termination of such declaration shall, for purposes of Rule 24f-1, be deemed to have been sold in an amount in excess of the number of shares of securities of the same class or series included in a registration statement of such issuer under the Securities Act of 1933 in effect at the time of sale. Nothing in this paragraph (b)(2) shall require an issuer to file a Rule 24f-2 Notice for any fiscal year in which the issuer has not sold any securities in reliance on a declaration authorized by paragraph (a)(1) of this section.

* * * * *

Dated: November 14, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31142 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 83-235]

Imported Electronic Products: Entry and Release

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to requirements for the entry and release of imported electronic products. The changes update and conform the regulations to current procedures and the statutory and regulatory requirements administered by Customs for the National Center for Devices and Radiological Health of the Food and Drug Administration. Specifically, the document provides that:

1. Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed in the Public Health Service Act, as amended, and not the Radiation Control for Health and Safety Act of 1968. This corrects an erroneous statutory reference in the Customs Regulations.

2. An electronic product offered for importation into the customs territory of the United States may be excepted from conforming to the standards of the Public Health Safety Act, as amended, if the importer by declaration affirms that the product either was manufactured before the date the standards became effective, or is being imported for the purpose of research, investigations, studies, demonstrations or training.

EFFECTIVE DATE: This document is effective on December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Darrell D. Kast, Entry Procedures and Penalties Division (202-566-5765); Operational Aspects: Harrison C. Feese, Duty Assessment Division (202-566-6651), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Sections 12.90 and 12.91, Customs Regulations (19 CFR 12.90, 12.91), set forth the requirements for entry and release of electronic products offered for importation into the United States. The requirements are based on standards prescribed by the Food and Drug Administration (FDA) under section 358 of the Public Health Service Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*).

Section 12.90 presently provides that "the Act" as referred to in § 12.91, means the Radiation Control for Health and Safety Act of 1968.

In addition, § 12.91 now requires that the importer or consignee of electronic products by declaration assert that the products either: (1) Conform to the standards of section 358 of the Public Health Service Act, as amended (42 U.S.C. 263(f)), or (2) will be brought into compliance with the standards unless intended solely for export.

In order to update the regulations and bring them into conformity with current Customs procedures as well as FDA requirements, a notice proposing to amend §§ 12.90 and 12.91 was published in the **Federal Register** on May 5, 1983 (48 FR 20243).

The proposed amendment to § 12.90 provided that "the Act" as referred to in § 12.91 refers to the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*), and not the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b-263n). The notice also proposed to correct the statutory reference in § 12.90 to the Radiation Control for Health and Safety Act of 1968.

The proposed amendment to § 12.91 would modify the language of the two existing declarations in that section. It also proposed to add two alternative declarations whereby the importer of record may affirm that the products either: (1) Were manufactured before the date the standards became effective, or (2) are being imported for the purpose of research, investigations, studies, demonstrations, or training. Current citation of authority for § 12.91 was set forth as well in the proposal.

No comments were received in response to the notice of proposed rulemaking. However, based upon Customs review one minor change has been made to the document. The last sentence of § 12.91(e) has been revised to read:

> If a special exemption is granted after the product has been imported under bond in accordance with paragraph (d) of this section, the bond conditions pertaining to the Secretary of Health and Human Services shall be deemed to have been satisfied.

This revision was necessary because the original language of paragraph (e) which was incorporated without change into the Notice of Proposed Rulemaking, called for return of the bond upon the granting of a special exemption. Since the bond is posted to satisfy Customs requirements as well as those of the Department of Health and Human Services, and, in the case of a CF 7551, becomes a permanent part of the entry file, its return to the importer would be inappropriate.

After a review of the matter, other than for the change discussed above, Customs has determined to adopt the proposal as described in that notice.

E.O. 12291

It has been determined that the amendments in this document are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. The amendments are technical conforming amendments which clarify existing regulatory and statutory requirements without making any substantive change.

Accordingly, the document contains a certification pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendments will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The declaration requirements are subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, Form FD 2877 was submitted to the Office of Management and Budget for approval. Form FD 2877 was approved and its OMB approval number is 57-R0120.

Drafting Information

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

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Imports, Importers.

Amendments to the Regulations

Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: October 25, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 12—SPECIAL CLASSES OF MERCHANDISE

Sections 12.90 and 12.91, Customs Regulations, are revised to read as follows:

§ 12.90 Definitions

As used in §§ 12.90 and 12.91, the term "the Act" shall mean the Public Health Service Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*), and as further amended from time to time.

§ 12.91 Electronic products offered for importation under the Act.

(a) *Standards prescribed by the Department of Health and Human Services.* Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 263f) unless intended solely for export. Prescribed standards shall not apply to any

electronic product intended solely for export if:

(1) Such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that it is intended for export, and

(2) Such product meets all the applicable requirements of the country to which it is intended for export.

(See 21 CFR, Chapter I, Subchapter J.)

(b) *Requirements for entry and release.* Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f), when offered for importation into the customs territory of the United States, shall be refused entry unless there is filed with the entry, in duplicate, a declaration (FDA Form FD 2877) verified by the importer of record which identifies the products and affirms:

(1) That the electronic products were manufactured before the date of any applicable electronic product performance standard (the date of manufacture shall be specified); or

(2) That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag is attached to the product; or

(3)(i) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but are being imported for the purpose of research, investigations, studied, demonstrations, or training, (ii) that the products will not be introduced into commerce and when the use for which they were imported is completed they will be destroyed or exported under Customs supervision, and (iii) that an exemption for these products has been or will be requested from the National Center for Devices and Radiological Health, Food and Drug Administration, in accordance with section 360B(b) of the Act (42 U.S.C. 263j); or

(4) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f) and Chapter I, Subchapter J, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but that a timely and adequate petition for permission to bring the products into compliance with applicable standards has been or will be filed with the Secretary of Health and Human Services in accordance with section 360 of the Public Health Service Act, as amended, and as implemented by 21 CFR 1005.21.

(c) *Notice of sampling.* When a sampling of a product offered for importation has been requested by the Secretary of Health and Human Services, as provided for in 21 CFR 1005.10, the district director of Customs having jurisdiction over the shipment from which the sample is procured shall give to its owner or importer of record prompt notice of delivery of, or intention to deliver, the sample. If the notice so requires, the owner or importer of record shall hold the shipment of which the sample is typical and not release the shipment until notice of the results of the tests of the sample from the Secretary of Health and Human Services stating the product fulfills the requirements of the Act.

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(4) of this section, the entry shall be accepted only if the owner or importer of record gives a bond on Customs Form 7551, 7553, or 7595 for the production of a notification from the Secretary of Health and Human Services or his designee, in accordance with 21 CFR 1005.23, that the electronic product described in the declaration filed by the importer of record is in compliance with the applicable standards. The bond shall be in the amount required under § 113.14 of this chapter. Within 180 days after the entry of such additional period as the district director may allow for good cause shown, the importer of record shall take any action necessary to insure delivery to the district director of the notification described in this paragraph. If the notification is not delivered to the district director for the port of entry of the electronic products within 180 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer of record shall deliver or cause to be delivered to the district director those electronic products which were released. In the event that any electronic products are not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the Notice of Redelivery (Customs Form 4647), liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553, or 7595, liquidated damages shall be assessed in the amount that would have been demanded if the merchandise had been released under a bond given on Customs Form 7551.

(e) *Release without bond—special exemptions.* For certain electronic products the Director, National Center for Devices and Radiological Health, has granted special exemptions from the otherwise applicable standards under the Act. Such exempted products may be imported and released without bond if they meet all the criteria of the special exemption. If a special exemption is granted after the product has been imported under bond in accordance with paragraph (d) of this section, the bond conditions pertaining to the notification of compliance from the Secretary of Health and Human Services shall be deemed to have been satisfied.

(f) *Merchandise refused entry.* If electronic products are denied entry under any provision of this section, the district director shall refuse to release the merchandise for entry into the United States.

(g) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Electronic products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (d) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of an electronic product in violation of the Act (42 U.S.C. 263f, 263h).

(R.S. 251, as amended, sec. 464, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759, (19 U.S.C. 66, 1484, 1498, 1624))

[FR Doc. 83-30981 Filed 11-17-83; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 626

Introduction to the Regulations Under the Job Training Partnership Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends the consolidated table of contents to the regulations under the Job Training Partnership Act (JTPA). For technical reasons, this amendment could not be made in the October 20, 1983,

publication of the final rules covering Title IV of JTPA. Therefore, to coordinate the consolidated table of contents with the corresponding JTPA regulations, this amendment is necessary.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Juarez, Telephone (202) 523–9110.

SUPPLEMENTARY INFORMATION: On October 20, 1983, the Employment and Training Administration (ETA) published final rules (20 CFR Parts 632, 633, 634, 636, and 684) implementing Title IV, Parts A, B, and E of the Job Training Partnership Act (JTPA) relating to Indian and Native American, migrant and seasonal farmworker, and Job Corps training programs. 48 FR 48744–48785. Four days later (October 24), ETA published final rules (20 CFR Part 635) implementing JTPA Title IV Part C relating to veterans' employment and training programs. 48 FR 49198–49200. The October 20 publication included an amendment to 20 CFR 626.3 which sets forth the consolidated table of contents for regulations under JTPA. 48 FR 48753–48754. This amendment originally included the table of contents to new Part 635. However, since Part 635 was not published in final until October 24, its table of contents could not be included in the October 20 publication and was deleted. For this reason, ETA is amending 20 CFR 626.3 to reflect the inclusion of the table of contents to Part 635.

Publication in Final

Since this amendment involves only a technical and nonsubstantive change, notice of proposed rulemaking and public comment is found to be unnecessary. Furthermore, the Secretary has determined that good cause exists for waiving the the 30 day delayed effective date. Therefore, this amendment is adopted as a final rule without notice and comment and shall be effective immediately. See 5 U.S.C. 553 (b) and (d).

Classification

This action is not classified as a "rule" under Executive Order 12291 because it is not "designed to implement, interpret or prescribe law or policy" nor does it describe "the procedure or practice requirements of an agency." See Section 1(a).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, pertaining to regulatory flexibility analysis, are not applicable to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This rule contains no "collection of information" requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3504(h). Therefore, this rule is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 626

Employment, Labor.

Accordingly, Part 626 of Chapter V of Title 20 of the Code of Federal Regulations is amended as set forth below.

1. The authority for Part 626 reads as follows:

Authority: Job Training Partnership Act, Sec. 169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97–300, 96 Stat. 1322), unless otherwise noted.

2. Section 626.3 is amended by adding in order the following table of contents for Part 635.

§ 626.3 Table of contents for the regulations under the Job Training Partnership Act.

* * * * *

PART 635—VETERANS' EMPLOYMENT PROGRAMS UNDER TITLE IV, PART C OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.
635.1 Scope and purpose.
635.2 Program administration.
635.3 Participant eligibility.

Subpart B—Program Funding

635.11 Availability of funds.
635.12 Eligibility for funds.
635.13 Application for funding.
635.14 Review of application for funding.
635.15 Approval of funding requests.

Subpart C—Program Design and Management

635.21 General.
635.22 Allowable activities.
635.23 Program management and performance standards.
635.24 Recordkeeping and reporting requirements.
635.25 Monitoring and oversight.
635.26 Grievance procedures.

Signed at Washington, D.C. on this 10th day of November 1983.

Royal S. Dellinger,

Acting Assistant Secretary of Labor.

[FR Doc. 83-30601 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-79-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N–0023]

GRAS Status of Ammonium Bicarbonate, Ammonium Carbonate, Ammonium Chloride, Ammonium Hydroxide, and Mono- and Dibasic Ammonium Phosphate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that ammonium bicarbonate, ammonium carbonate, ammonium chloride, ammonium hydroxide, and mono- and dibasic ammonium phosphate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 19, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1135, 184.1137, 184.1138, 184.1139, 184.1141a, and 184.1141b effective on December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 4, 1978 (43 FR 14064), FDA published a proposal to affirm that ammonium bicarbonate, ammonium carbonate, ammonium chloride, ammonium hydroxide, and Mono- and dibasic ammonium phosphate are GRAS for use in direct human food ingredients, and that ammonium chloride and ammonium hydroxide are GRAS for use in indirect human food ingredients. FDA published this proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of October 15, 1982 (47 FR 46113), in which FDA proposed not to include the levels of use or food categories that appeared in the proposal. The tentative final rule also included a change in the specifications for ammonium chloride and for mono- and dibasic ammonium phosphate. The tentative final rule also proposed not to include a separate listing in 21 CFR Part

186 for the indirect uses of ammonium chloride and ammonium hydroxide because the indirect uses of these substances would be authorized under §§ 184.1138, 184.1139, and 184.1(a). The tentative final rule provided an opportunity for public comment on these changes.

No comments were received in response to the tentative final rule. Therefore, the agency is adopting this final rule with minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by that Order. FDA had not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities and the evidence supporting these findings are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entries "Ammonium chloride" and "Ammonium hydroxide."

§§ 182.1135, 182.1137, 182.1139, and 182.1141 [Removed]

b. By removing § 182.1135 *Ammonium bicarbonate*, § 182.1137 *Ammonium carbonate*, § 182.1139 *Ammonium hydroxide*, and § 182.1141 *Ammonium phosphate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1135, to read as follows:

§ 184.1135 Ammonium bicarbonate.

(a) Ammonium bicarbonate (NH_4HCO_3, CAS Reg. No. 1066-33-7) is prepared by reacting gaseous carbon dioxide with aqueous ammonia. Crystals of ammonium bicarbonate are precipitated from solution and subsequently washed and dried.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 19, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter; a leavening agent as defined in § 170.3(o)(17) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; and a texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1137, to read as follows:

§ 184.1137 Ammonium carbonate.

(a) Ammonium carbonate ($(NH_4)_2CO_3$, CAS Reg. No. 8000-73-5) is a mixture of ammonium bicarbonate (NH_4HCO_3) and ammonium carbamate (NH_2COONH_4). It is prepared by the sublimation of a mixture of ammonium sulfate and calcium carbonate and occurs as a white powder or a hard, white or translucent mass.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 19, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a leavening agent as defined in § 170.3(o)(17) of this chapter and a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

c. By adding new § 184.1138, to read as follows:

§ 184.1138 Ammonium chloride.

(a) Ammonium chloride (NH_4Cl, CAS Reg. No. 12125-02-9) is produced by the reaction of sodium chloride and an ammonium salt in solution. The less soluble sodium salt separates out at elevated temperatures, and ammonium chloride is recovered from the filtrate on cooling. Alternatively, hydrogen chloride formed by the burning of hydrogen in chlorine is dissolved in water and then reacted with gaseous

ammonia. Ammonium chloride is crystallized from the solution.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 20, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave, NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter; a flavor enhancer as defined in § 170.3(o)(11) of this chapter; a leavening agent as defined in § 170.3(o)(17) of this chapter; and a processing aid as defined in § 107.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

d. By adding new § 184.1139, to read as follows:

§ 184.1139 Ammonium hydroxide.

(a) Ammonium hydroxide (NH_4OH, CAS Reg. No. 1336-21-6) is produced by passing ammonia gas into water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 20, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing pratice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing pactice conditions of use:

(1) The ingredient is used as a leavening agent as defined in § 170.3(o)(17) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; a surface-finishing agent as defined in § 170.3(o)(30) of this chapter; and as a boiler water additive complying with § 173.310 of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. The ingredient may also be used as a boiler water good additive at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

e. By adding new § 184.1141a, to read as follows:

§ 184.1141a Ammonium phosphate, monobasic.

(a) Ammonium phosphate, monobasic ($NH_4H_2PO_4$, CAS Reg. No. 7722-76-1) is manufactured by reacting ammonia with phosphoric acid at a pH below 5.8.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 21, which is incorporated by reference. Copies are available from the National Academy Press, 2110 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter and a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

f. By adding new § 184.1141b, to read as follows:

§ 184.1141b Ammonium phosphate, dibasic.

(a) Ammonium phosphate, dibasic ($(NH_4)_2HPO_4$, CAS Reg. No. 7783-28-0) is manufactured by reacting ammonia with phosphoric acid at a pH above 5.8.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 21, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter; a firming agent as defined in § 170.3(o)(10) of this chapter; a leavening agent as defined in § 170.3(o)(17) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 19, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30814 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 182 and 184

[Docket No. 78N-0071]

GRAS Status of Carbonates and Bicarbonates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that calcium carbonate, potassium bicarbonate, potassium carbonate, sodium bicarbonate, sodium carbonate, sodium sesquicarbonate, and ground limestone are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 19, 1983.

The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1191, 184.1409, 184.1613, 184.1619,

184.1736, 184.1742, and 184.1792 effective on December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Leo F. Mansur, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 13, 1978 (43 FR 25438), FDA published a proposal to affirm that calcium carbonate, potassium bicarbonate, potassium bicarbonate, potassium carbonate, sodium bicarbonate, sodium carbonate, and sodium sesquicarbonate are GRAS for use as direct human food ingredients, and that sodium carbonate and sodium bicarbonate are GRAS for use in indirect human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of August 31, 1982 (47 FR 38349), in which FDA proposed not to include the levels of use or, in some instances, the food categories and technical effects that appeared in the proposal. The tentative final rule also adopted a change in specifications for calcium carbonate and tentatively affirmed that ground limestone is GRAS as a direct human food ingredient. The tentative final rule provided an opportunity for public comment on these changes.

One comment was received in response to the agency's tentative final rule. The comment pointed out that several analytical limits for sodium sesquicarbonate, in the 3d edition of the Food Chemicals Codex, were different from those in the 2d edition. These included assay ranges for sodium bicarbonate of not less than 35.0 percent and not more than 38.6 percent as compared to a range of not less than 35.5 percent or not more than 37.2 percent in the 2d edition; ranges for sodium carbonate of not less than 46.4 percent or not more than 50.0 percent as compared to a range of not less than 47.0 percent or not more than 48.5 percent in the 2d edition; and water ranges between 13.8 and 16.7 percent as compared to a range between 15.2 and 16.2 percent in the 2d edition.

The agency notes that these changes resulted from use of a new, more accurate method of analysis for the sodium bicarbonate content of sodium sesquicarbonate. However, the agency was aware of these changes and determined that they were not significant. Furthermore, the modifications of the assay ranges do not result in any need for changes in the regulation because the tentative final rule established the Food Chemicals Codex, 3d edition, which contains these modifications, as the reference for the compound specifications. The agency is therefore issuing this final rule based on the tentative final rule with no changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of the type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entries for "Sodium bicarbonate" and "Sodium carbonate."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Sodium carbonate."

§§ 182.1191, 182.1613, 182.1619, 182.1736, 182.1742, 182.1792, and 182.8191 [Removed]

c. By removing § 182.1191 *Calcium carbonate*, § 182.1613 *Potassium bicarbonate*, § 182.1619 *Potassium carbonate*, § 182.1736 *Sodium bicarbonate*, § 182.1742 *Sodium carbonate*, § 182.1792 *Sodium sesquicarbonate*, and § 182.8191 *Calcium carbonate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1191, to read as follows:

§ 184.1191 Calcium carbonate.

(a) Calcium carbonate ($CaCO_3$, CAS Reg. No. 471-34-1) is prepared by three common methods of manufacture:

(1) As a byproduct in the "Lime soda process";

(2) By precipitation of calcium carbonate from calcium hydroxide in the "Carbonation process"; or

(3) By precipitation of calcium carbonate from calcium chloride in the "Calcium chloride process".

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 46, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section, or different from that set

forth in Part 181 of this chapter, do not exist or have been waived.

b. By adding new § 184.1409, to read as follows:

§ 184.1409 Ground limestone.

(a) Ground limestone consists essentially (not less than 94 percent) of calcium carbonate ($CaCO_3$) and is prepared by the crushing, grinding, and classifying of naturally occurring limestone.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 173, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

c. By adding new § 184.1613, to read as follows:

§ 184.1613 Potassium bicarbonate.

(a) Potassium bicarbonate ($KHCO_3$, CAS Reg. No. 298–14–6) is made by the following processes:

(1) By treating a solution of potassium hydroxide with carbon dioxide;

(2) By treating a solution of potassium carbonate with carbon dioxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 239, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter; nutrient supplemlent as defined in § 170.3(o)(20) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

d. By adding new § 184.1619, to read as follows:

§ 184.1619 Potassium carbonate.

(a) Potassium carbonate (K_2CO_3, CAS Reg. No. 584–08–7) is produced by the following methods of manufacture:

(1) By electrolysis of potassium chloride followed by exposing the resultant potassium to carbon dioxide;

(2) By treating a solution of potassium hydroxide with excess carbon dioxide to produce potassium carbonate;

(3) By treating a solution of potassium hydroxide with carbon dioxide to produce potassium bicarbonate, which is then heated to yield potassium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 240, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. the affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; nutrient supplement as defined in § 170.3(o)(20) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

e. By adding new § 184.1736, to read as follows:

§ 184.1736 Sodium bicarbonate.

(a) Sodium bicarbonate ($NaHCO_3$, CAS Reg. No. 144–55–8) is prepared by treating a sodium carbonate or a sodium carbonate and sodium bicarbonate solution with carbon dioxide. As carbon dioxide is absorbed, a suspension of sodium bicarbonate forms. The slurry is filtered, forming a cake which is washed and dried.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 278, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

f. By adding new § 184.1742, to read as follows:

§ 184.1742 Sodium carbonate.

(a) Sodium carbonate (Na_2CO_3, CAS Reg. No. 497–19–8) is produced (1) From purified trona ore that has been calcined to soda ash; (2) from trona ore calcined to impure soda ash and then purified; or (3) synthesized from limestone by the Solvay process.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 280, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as an antioxidant as defined in § 170.3(o)(3) of this chapter; curing and pickling agent as defined in § 170.3(o)(5) of this chapter; flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in

this section do not exist or have been waived.

g. By adding new § 184.1792, to read as follows:

§ 184.1792 Sodium sesquicarbonate.

(a) Sodium sesquicarbonate ($Na_2CO_3.NaHCO_3.2H_2O$, CAS Reg. No. 533-96-0) is prepared by: (1) Partial carbonation of soda ash solution followed by crystallization, centrifugation, and drying; (2) double refining of trona ore, a naturally occurring impure sodium sesquicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 299, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in cream at levels not to exceed current good manufacturing practice. Current good manufacturing practice utilizes a level of the ingredient sufficient to control lactic acid prior to pasteurization and churning of cream into butter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 19, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30812 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 182 and 184

[Docket No. 79N-0209]

GRAS Status of Potassium Hydroxide and Sodium Hydroxide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that potassium hydroxide and sodium hydroxide are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 19, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1631 and 184.1763 effective on December 19, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1980 (45 FR 11842), FDA published a proposal to affirm that potassium hydroxide and sodium hydroxide are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of August 27, 1982 (47 FR 37931), in which FDA proposed not to include levels of use and food categories in the GRAS regulations on potassium hydroxide and sodium hydroxide and changed the food grade specifications. The tentative final rule provided an opportunity for public comment on these changes.

One comment was received in response to the agency's tentative final rule on potassium and sodium hydroxides. The comment supported the tentative final rule and the removal of maximum use levels and food categories.

The agency concludes that no changes in the tentative final rule are necessary as a result of this comment. The agency is therefore issuing the tentative final rule as a final rule with minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry "Sodium hydroxide" from the list of substances.

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry "Sodium hydroxide" from the list of substances.

§ 182.1631 [Removed]

c. By removing § 182.1631 *Potassium hydroxide.*

§ 182.1763 [Removed]

d. By removing § 182.1763 *Sodium hydroxide.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1631, to read as follows:

§ 184.1631 Potassium hydroxide.

(a) Potassium hydroxide (KOH, CAS Reg. No. 1310–58–3) is also known as caustic potash, potash lye, and potassa. The empirical formula is KOH. It is a white, highly deliquescent caustic solid, which is marketed in several forms, including pellets, flakes, sticks, lumps, and powders. Potassium hydroxide is obtained commercially from the electrolysis of potassium chloride solution in the presence of a porous diaphragm.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available from inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter; a pH control agent as defined in § 170.3(o)(23) of the chapter; a processing aid as defined in § 170.3(o)(24) of this chapter; and a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1763, to read as follows:

§ 184.1763 Sodium hydroxide.

(a) Sodium hydroxide (NaOH, CAS Reg. No. 1310–73–2) is also known as sodium hydrate, soda lye, caustic soda, white caustic, and lye. The empirical formula is NaOH. Sodium hydroxide is prepared commercially by the electrolysis of sodium chloride solution and also by reacting calcium hydroxide with sodium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a pH control agent as defined in § 170.3(o)(23) of this chapter and as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 19, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30813 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 182 and 184

[Docket No. 78N-0372]

GRAS Status of Stearic Acid and Calcium Stearate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that stearic acid and calcium stearate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 19, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1090 and 184.1229 effective December 19, 1983.

FOR FURTHER INFORMATION CONTACT: John Dawson, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 1, 1983 (48 FR 4486), FDA published a proposal to affirm that stearic acid and calcium stearate are GRAS for use as direct human food ingredients. FDA published this proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on stearic acid and calcium stearate and the report of the Select Committee on GRAS Substances (the Select Committee) on these substances are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of stearic acid and calcium stearate, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these ingredients other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of stearic acid or calcium stearate recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for stearic acid or calcium stearate were submitted in response to the proposal. Therefore, in accordance with the

proposal, any right to assert a prior sanction for use of stearic acid or calcium stearate under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on stearic acid and calcium stearate. Therefore, the agency is issuing the proposal as a final rule with minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. Part 182 is amended in § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Stearic acid."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1090, to read as follows:

§ 184.1090 Stearic acid.

(a) Stearic acid ($C_{18}H_{36}O_2$, CAS Reg. No. 5–11–4) is a white to yellowish white solid. It occurs naturally as a glyceride in tallow and other animal or vegetable fats and oils and is a principal constituent of most commercially hydrogenated fats. It is produced commercially from hydrolyzed tallow derived from edible sources or from hydrolyzed, completely hydrogenated vegetable oil derived from edible sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 313, which is incorporated by reference, and the requirements of § 172.860(b)(2) of this chapter. Copies of the Food Chemicals Codex are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1229, to read as follows:

§ 184.1229 Calcium stearate.

(a) Calcium stearate ($Ca[C_{17}H_{35}COO]_2$, CAS Reg. No. 1529–23–0) is the calcium salt of stearic acid derived from edible sources. It is prepared as a white precipitate by mixing calcium chloride and sodium stearate in aqueous solution.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 64, which is incorporated by reference, and the requirements of § 172.860(b)(2) of this chapter. Copies of the Food Chemicals Codex are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. These regulations shall be effective December 16, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30800 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 182 and 184

[Docket No. 80N-0274]

GRAS Status of Tartaric Acid and Certain Tartrates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Adminstration (FDA) is affirming that

tartaric acid, potassium acid tartrate, sodium tartrate, and sodium potassium tartrate are generally recognized as safe (GRAS) for use as direct human food ingredients. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency.

DATES: Effective December 19, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1077, 184.1099, 184.1801, and 184.1804 effective on December 19, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 17, 1982 (47 FR 35772), FDA published a proposal to affirm that tartaric acid and certain tartrate salts are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review, mutagenic evaluation, teratologic evaluation, and the report of the Select Committee on GRAS Substances (the Select Committee) on tartaric acid and certain tartrate salts are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of tartaric acid and certain tartrates, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these ingredients other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of tartaric acid and certain tartrates recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for tartaric acid and certain tartrates were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of tartaric acid and certain tartrates under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on tartaric acid and certain tartrates. The agency is therefore issuing the proposed regulations as a final rule with minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (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. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of these regulations. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (adddress above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing "Tartaric acid" from the list of substances.

§§ 182.1077, 182.1099, 182.1804, 182.6099, 182.6801, 182.6804 [Removed]

b. By removing § 182.1077 *Potassium acid tartrate*, § 182.1099 *Tartaric acid*, § 182.1804 *Sodium potassium tartrate*, § 182.6099 *Tartaric acid*, § 182.6801 *Sodium tartrate*, and § 182.6804 *Sodium potassium tartrate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1077, to read as follows:

§ 184.1077 Potassium acid tartrate.

(a) Potassium acid tartrate ($C_4H_5KO_6$, CAS Reg. No. 868-14-4) is the potassium acid salt of L-(+)-tartaric acid and is also called potassium bitartrate or cream of tartar. It occurs as colorless or slightly opaque crystals or as a white, crystalline powder. It has a pleasant, acid taste. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), P. 238, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally

recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter; an antimicrobial agent as defined in § 170.3(o)(2) of this chapter; a formulation aid as defined in § 170.3(o)(14) of this chapter; a humectant as defined in § 170.3(o)(16) of this chapter; a leavening agent as defined in § 170.3(o)(17) of this chapter; A pH control agent as defined in § 170.3(o)(23) of this chapter; a processing aid as defined in § 170.3(o)(24) of this chapter; a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; and a surface-active agent as defined in § 170.3(o)(29) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; gelatins and puddings as defined in § 170.3(n)(22) of this chapter; hard candy as defined in § 170.3(n)(25) of this chapter; jams and jellies as defined in § 170.3(n)(28) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1099, to read as follows:

§ 184.1099 Tartaric acid.

(a) Food grade tartaric acid ($C_4H_6O_6$, CAS Reg. No. 82-69-4) has the L configuration. The L form of tartaric acid is dextrorotatory in solution and is also known as L-(+)-tartaric acid. Tartaric acid occurs as colorless or translucent crystals or as a white, crystalline powder. It is odorless and has an acid taste. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Cnemicals Codex, 3d Ed. (1981), P. 320, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; a flavor enhancer as defined in § 170.3(o)(11) of this chapter; a flavoring agent as defined in § 170.3(o)(12) of this chapter; a humectant as defined in § 170.3(o)(16) of this chapter; and a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

c. By adding new § 184.1801, to read as follows:

§ 184.1801 Sodium tartrate.

(a) Sodium tartrate ($C_4H_4Na_2O_6.2H_2O$, CAS Reg. No. 868-18-8) is the disodium salt of L-(+)-tartaric acid. It occurs as transparent, colorless, and odorless crystals. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 303, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an emulsifier as defined in § 170.3(o)(8) of this chapter and as a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in§ 170.3(n)(5) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; and jams and jellies as defined in § 170.3(n)(28) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

d. By adding new § 184.1804, to read as follows:

§ 184.1804 Sodium potassium tartrate.

(a) Sodium potassium tartrate ($C_4H_4KNaO_6.4H_2O$, CAS Reg. No. 304-59-6) is the sodium potassium salt of L-(+)-tartaric acid and is also called the Rochelle salt. It occurs as colorless crystals or as a white, crystalline powder and has a cooling saline taste. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 296, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an emulsifier as defined in § 170.3(o)(8) of this chapter and as a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in § 170.3(n)(5) of this chapter and jams and jellies as defined in § 170.3(n)(28) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective December 19, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30810 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 184

[Docket No. 77N-0039]

GRAS Status of Sodium Alginate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that

sodium alginate is generally recognized as safe (GRAS) as a direct human food ingredient for use in processed fruits and fruit juices. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 28, 1983 (48 FR 4002), FDA published a proposal to amend the GRAS status of sodium alginate to include its use in processed fruits and fruit juices at a level of 2.0 percent. The proposed amendment was published in response to a comment which noted that FDA had inadvertently omitted this use from its final rule on alginates, which was published July 9, 1982 (47 FR 29946).

No comments were received in response to the agency's proposed amendment to the GRAS affirmation regulation for sodium alginate (21 CFR 184.1724). Therefore, the agency is amending § 184.1724 as proposed. FDA is also making minor editorial changes in the table found in § 184.1724.

The agency has determined pursuant to 21 CFR 25.24 (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.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. The agency has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities and the evidence supporting these findings are contained in a threshold assessment that may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 184 is amended in § 184.1724(c) by revising the table, to read as follows:

§ 184.1724 Sodium alginate.

* * * * *

(c) * * *

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Condiments and relishes, § 170.3(n)(8) of this chapter, except pimento ribbon for stuffed olives	1.0	Texturizer, § 170.3(o)(32) of this chapter, formulation aid § 170.3(o)(14) of this chapter, stabilizer, thickener, § 170.3(o)(28) of this chapter.
Pimento ribbon for stuffed olives	6.0	Do.
Confections and frostings, § 170.3(n)(9) of this chapter.	0.3	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Gelatins and puddings, § 170.3(n)(22) of this chapter.	4.0	Firming agent, § 170.3(o)(10) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.
Hard candy, § 170.3(n)(25) of this chapter	10.0	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Processed fruits and fruit juices, § 170.3(n)(35) of this chapter.	2.0	Formulation aid, § 170.3(o)(14) of this chapter; texturizer, § 170.3(o)(32) of this chapter.
All other food categories	1.0	Emulsifier, § 170.3(o)(8) of this chapter; firming agent, § 170.3(o)(10) of this chapter; flavor enhancer, § 170.3(o)(11) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter; processing aid, § 170.3(o)(24) of this chapter; stabilizer and thickener, § 170.3(o)(28) of this chapter; surface active agent, § 170.3(o)(29) of this chapter.

* * * * * * *

Effective date. This regulation is effective December 19, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30811 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address for A. H. Robins Co.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., 1405 Cummings Dr., P.O. Box 26609, Richmond, VA 23261, has informed FDA of a change of sponsor name and address. This is an administrative change which does not in any other way affect the approval of the firm's NADA's. The agency is amending the regulations to reflect the change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the entry for "A. H. Robins Co., Research Laboratories" in paragraph (c)(1) and in the entry for "000031" in paragraph (c)(2) by changing the entry for the firm name and address to read "A. H. Robins Co., 1405 Cummings Dr., P.O. Box 26609, Richmond, VA 23261."

Effective date, November 18, 1983.

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

Dated: November 14, 1983.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 83-31105 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Civil Division Directive No. 158-83]

Further Revision of Civil Division Directive No. 145-81

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: This document amends Civil Division Directive No. 145-81, as it appears in 46 FR 52352 (Oct. 27, 1981), and as revised by Directive No. 151-82, 47 FR 21533 (May 19, 1982). These changes reflect transfer of the Consumer Affairs Section from the Antitrust Division to the Civil Division and transfer of certain civil litigation arising under the the Immigration and Nationality Act and related laws from the Criminal Division to the Civil Division, pursuant to DOJ Order No. 1002-83, 48 FR 9522 (March 7, 1983.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Robert N. Ford, Civil Division, Room 3137, 9th & Pennsylvania Avenue, NW., Washington, D.C. 20530, Telephone No. (202) 633-3309. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The requirements of Executive Order No. 12291 (Federal Regulation) do not apply to this directive because it deals with agency management and is therefore exempt under section 1(a)(3) of that Order. Additionally, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply because this directive is not a "rule" under section 601(2).

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Claims, Government employees organization and functions (Government agencies).

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

By the authority vested in me as Assistant Attorney General, Civil Division, by 28 CFR 0.168, Civil Division Directive No. 145-81 (Appendix to Subpart Y of Part 0, Title 28, Code of Federal Regulations) is amended as follows:

Appendix to Subpart Y [Amended]

1. Section 1(b) is revised to read:

* * * * *

(b) Delegation to Branch Directors, the Director of the Appellate Staff, the Chief of the Judgment Enforcement Unit, the Director of the Office of Foreign Litigation, the Director of the Office of Immigration Litigation, and the Director of the Office of Consumer Litigation. Subject to the limitations imposed by paragraph (d) of this section, Branch Directors, the Director of the Appellate Staff, the Chief of the Judgment Enforcement Unit, the Director of the Office of Foreign Litigation, the Director of the Office of Immigration Litigation, and the Director of the Office of Consumer Litigation are hereby authorized, with respect to matters assigned to their respective components, to reject any offer in compromise and to accept offers in compromise and close claims or cases in the manner and to the same extent as Deputy Assistant Attorneys General, except that Branch Directors, the Director of the Appellate Staff, the Chief of the Judgment Enforcement Unit, the Director of the Office of Foreign Litigation, the Director of the Office of Immigration Litigation, and the Director of the Office of Consumer Litigation cannot accept or reject any offers in compromise of, or settle administratively any claim or case against the United States where the principal amount to be paid by the United States exceeds $150,000. Nor can these Civil Division officials close (other than by compromise or by entry of judgment), any claim or case on behalf of the United States where the gross amount involved exceeds $150,000 or accept or reject any offers in compromise of any such claim or case in which the difference between the gross amount of the original claim and the proposed settlement exceeds $150,000 or 10 percent of the original claim, whichever is greater. Branch Directors, the Chief of the Judgment Enforcement Unit, the Director of the Office of Foreign Litigation, the Director of the Office of Immigration Litigation, and the Director of the Office of Consumer Litigation are further authorized to file suits, counterclaims, and cross-claims, or to take any other action necessary to protect the interests of the United States in all nonmonetary cases, in all routine loan collection and foreclosure cases, and in other monetary claims or cases where the gross amount of the claim does not exceed $150,000.

2. Section 1((c)(2) is revised to read:

* * * * *

(c)(2) Accept or reject offers to compromise cases and close claims which have been directly referred or delegated to them by the Civil Division, as set forth in sections 4 (a) and (b) of this directive, in the same manner and to the same extent as Branch and Office Directors, except that United States Attorneys and Attorneys-in-Charge of field offices cannot accept or reject any offers in compromise of any claim or case against the United States where the principal amount of the proposed settlement exceeds $100,000. Nor can United States Attorneys or Attorneys-in-Charge of field offices close (other than by compromise or by entry of judgment) any claim or case on behalf of the United States where the gross amount involved exceeds $100,000, or accept or reject any offers in compromise of any such claim or case in which the difference between the gross amount of the original claim and the proposed settlement exceeds $100,000 or 10 percent of the original claim, whichever is greater. United States Attorneys may redelegate this authority to Assistant United States Attorneys who supervise other Assistant United States Attorneys who handle civil litigation.

3. Section 4(c) is amended by adding new subparagraphs (8) and (9) which are to read:

* * * * *

(8) Criminal proceedings arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(c) * * *

(9) Nonmonetary civil cases, including injunction suits, declaratory judgment actions, and applications for inspection warrants, and cases seeking civil penalties, arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(5 U.S.C. 301; 28 U.S.C. 509 and 510)

J. Paul McGrath

Assistant Attorney General.

[FR Doc. 83-30995 Filed 11-17-83; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL 2473-2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: Today's notice takes final action to approve revisions to rules of several air pollution control districts. These revisions were submitted by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). These revisions generally are administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective January 17, 1984.

ADDRESSES: A copy of the revisions is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974-7641.

SUPPLEMENTARY INFORMATION: The ARB submitted as SIP revisions the following rules on April 11, 1983:

Butte County

Rule 1-36 Controlled Pollutant
Rule 4-2 Permits Required
Rule 4-3 Permit Fee
Rule 4-11 Appeal Fee
Rule 5-3 Application Fee

El Dorado County

Rule 203 Exceptions
Rule 206 Incinerator Burning
Rule 207 Particulate Matter
Rule 209 Fossil Fuel Steam Generator
Rule 210 Specific Contaminants
Rule 211 Process Weight Per Hour
Rule 212 Process Weight Table
Rule 221 Animal Matter
Rule 222 Abrasive Blasting
Rule 223 Fugitive Dust
Rule 224 Enforcement
Rule 225 Existing Sources
Rule 226 Compliance Tests
Rule 521 Annual Renewal
Rule 609 Multiple Location
Rule 610 Duplicate Permit
Rule 611 Technical Reports
Rule 612 Hearing Board Fees
Rule 700 Health and Safety Code
Rule 702 Filing Petitions
Rule 703 Contents of Petitions

Fresno County

Rule 301 Permit Fee

Lake County

Rule 900 Penalties
Rule 902 Penalties

Madera County

Rule 103 Confidential Information
Rule 104 Inspection of Public Records
Rule 105 Enforcement
Rule 106 Order of Abatement
Rule 107 Land Use
Rule 108 Inspections
Rule 109 Source Monitoring
Rule 110 Source Sampling
Rule 111 Penalty
Rule 112 Arrests and Notices to Appear
Rule 113 Equipment Breakdown
Rule 114 Circumvention
Rule 115 Separation and Conbination
Rule 116 Severability
Rule 117 Applicability
Rule 301 Permit Fees
Rule 302 Permit Fee Schedules
Rule 303 Emission Analysis Fees
Rule 304 Report Fees
Rule 305 Hearing Board Fees
Rule 401 Visible Emissions
Rule 402 Particulate Matter Emissions (General)
Rule 403 Particulate Matter Emissions from the Incineration of Combustible Refuse
Rule 404 Sulfur Compound Emissions (General)
Rule 405 Fuel Burning Equipment Emissions
Rule 421 Reduction of Animal Matter
Rule 422 Open Burning
Rule 423 Incinerator Burning
Rule 424 Agricultural Burning
Rule 425 Orchard Heaters
Rule 501 Applicable Provisions of the Health and Safety Code
Rule 502 General
Rule 503 Filing Petitions
Rule 519 Emergency Variance
Rule 606 Administration of Energency Program
Rule 610 Episode Action Stage 2 (Warning)
Rule 611 Episode Action Stage 3 (Emergency)

Monterey Bay

Rule 200 Permits Required
Rule 201(p) Sources Not Requiring Permits
Rule 501 Noncomplying Heaters
Rule 503 Condition of Heaters
Rule 506 Prohibition of Sale
Rule 507 Burning Rubber/Other Substances
Rule 508 (Deleted)

Ventura County

Rule 59c Electrical Power Generating Equipment Oxides of Nitrogen

These rule revisions are administrative and do not significantly impact current emission control requirements. The above mentioned rules reflect a renumbering change, increased permit fees; deleted and added exemptions and clarification.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the California SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate

matter, Carbon monoxide, Hydrocarbons.

Dated: November 7, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 paragraph (c) is amended by adding paragraph (138) (i)–(vii) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(138) Revised regulations for the following APCDs was submitted on April 11, 1983 by the Governor's designee.

(i) Butte County APCD.

(A) Amended rules 1–36, 4–2, 4–3, 4–11, and 5–3.

(ii) El Dorado County APCD.

(A) New or amended rules 203, 206, 207, 209–212, 221–226, 521, 609–612 and 700–703.

(iii) Fresno County APCD.

(A) New or amended rule 301.

(iv) Lake County APCD.

(A) New or amended rules 900 and 902.

(v) Madera County APCD.

(A) New or amended rules 103–117, 301–305, 401–405, 421–425, 501–503, 519, 606, 610 and 611.

(vi) Monterey Bay Unified APCD.

(A) New or amended rules 200, 201(p), 501, 503, 506, 507 and 508.

(vii) Ventura County APCD.

(A) New or amended rule 59c.

* * * * *

[FR Doc. 83-31101 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-9-FRL 2470-7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve revisions to rules of several Air Pollution Control Districts (APCD). These revisions were submitted by the California Air Resources Board (CARB) as revisions to the California State Implementation Plan (SIP). These revisions are generally administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective January 17, 1984.

ADDRESSES: A copy of the SIP revisions is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations.

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, S.W., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7641.

SUPPLEMENTARY INFORMATION:

Description of Regulations

The CARB submitted the following rules as SIP revisions on February 3, 1983:

Bay Area Air Quality Management District (AQMD)

Regulation 3 Fees

Rule 3–102 Exemption, Public Agencies.
Rule 3–302 Fees for New and Modified Sources.
Rule 3–302.1 Small Business.
Rule 3–303 Retroactive Permits.

Schedule A—Schedule of Filing Fees

Fresno County

Rule 406 Sulfur Compounds.
Rule 408 Fuel Burning Equipment.

Imperial County

Rule 409 Incinerators.

Monterey Bay Unified

Rule 300 Permit Fees.
Rule 301 Permit Fee Schedules.
Rule 601 Filing Petitions.

North Coast Unified AQMD

Rules are those of former Humboldt County APCD and:

Rule 350 Fuel Burning and Power Generation Surcharge.

San Luis Obispo County

Rule 302 Schedule of Fees.

South Coast AQMD

Resolution No. 82–23: Merger of L.A. County (Desert Portion) with South Coast AQMD.
Resolution No. 82–35: Replacement of L.A. County (Desert Portion) rules with South Coast AQMD rules.
Rule 301.1 Emissions Reduction Credit and Register Credit Fees.
Rule 302 Fees for Publications.
Rule 303 Hearing Board Fees.

Ventura County

Rule 41 Hearing Board Fees.

Evaluation

As described below, these rule revisions are administrative and do not significantly impact current emission control requirements.

Bay Area AQMD—Rule 3–102 (Exemption, Public Agencies) deletes the federal government from paying fees. Revisions in Rules 3–302 (Fees for New and Modified Sources), 3–302.1 (Small Business), and 3–303 (Retroactive Permits) set an additional fee to operate a new or modified source utilized primarily for manufacturing semiconductor and related solid state devices. In Schedule A (Schedule of Filing Fees) Item 10 has been added which specifies that if a service station has been shut down in accordance with Rule 8–7–306 there is no filing fee for an application for a variance.

Fresno County—Rule 406 (Sulfur Compounds) specifies how a violation is determined. The coverage of Rule 408 (Fuel Burning Equipment) has been expanded to include glass plants and gas turbine engines.

North Coast Unified AQMD—The North Coast Unified AQMD reflects the merger of Del Norte and Trinity County Air Pollution Control Districts (APCD), with Humboldt County APCD into one district, to be designated as the North Coast Unified AQMD. The effect of this revision is to make the former rules of Humboldt County applicable through the North Coast Unified AQMD. Further, a new Rule 350 (Fuel Burning and Power Generation Surcharge) is added which allows for possible surcharge of fuel burning equipment should current revenues from the current fee schedule be inadequate to cover permit related cost. These revisions generally retain the previous emission control requirements, as approved in past **Federal Register** notices.

Imperial County—Rule 409 (Incinerators) exempts the use of residential and public incinerators. This exemption applies only for areas without waste disposal service.

Monterey Bay Unified—Rules 300 (Permit Fees) and 301 (Permit Fee Schedules) make minor changes to permit fee rules and schedules. Rule 601 (Filing Petitions) now allows charges for excess emissions.

San Luis Obispo County—Rule 302 (Schedule of Fees) increases fees for the issuance of a permit to operate a new or modified source.

South Coast AQMD—Resolution 82–23 of the South Coast AQMD includes the Southeast Desert Air Basin portion of Los Angeles County within the South Coast AQMD District jurisdiction.

Resolution 82–85 of the South Coast AQMD adopts rules and regulations for the Southeast Desert Air Basin (SEDAB) portion of Los Angeles County. The effect of this revision to the SIP is to rescind the SEDAB rules for Los Angeles County and to make all the federally approved South Coast AQMD rules applicable throughout Los Angeles County, except as follows:

SEDAB Regulation III remains in effect (except rules 42 and 44) South Coast AQMD rules 1102, 1102.1, 461 and Regulation III do not apply in the SEDAB portion of Los Angeles County. The South Coast AQMD rules are, on the whole, more stringent than the rules in SEDAB portion of Los Angeles County.

Rule 301.1 (Emissions Reduction Credit and Register Credit Fees) provides for emissions reduction credit registration fees.

Rule 302 (Fees for Publication) provides for collection of fees for technical reports and Rule 303 (Hearing Board Fees) requires hearing board fees to be paid to the Clerk or Deputy Clerk of the Hearing Board.

Ventura County—Rule 41 (Hearing Board Fees) requires hearing board fees to be paid to the District instead of the Hearing Board Clerk.

EPA Actions

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these SIP revisions. EPA has evaluated all the rules and resolutions submitted by the CARB and they have been found to be in accordance with EPA policy and 40 CFR Part 51. EPA's evaluation of the submitted rules is available at the EPA Library in Washington, D.C. and the Region 9 office.

The purpose of this notice is to approve all the rule revisions listed above and to incorporate them into the California SIP. EPA is approving these rule revisions without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. If EPA receives notice within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

This notice also corrects an administrative error made in the June 24, 1983 (48 FR 28988) Withdrawal of Final Rules, 40 CFR 52.220, *Identification of plan*, to correct the amendatory language for paragraph (c)(54)(iv)(C).

Regulatory Process

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 Fr 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Authority: Sections 110, 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

Dated: November 9, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by revising paragraph (c)(54)(iv)(C) and by adding paragraph (c)(127) (i)(B) and (ii)–(viii) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(54) * * *

(iv) * * *

(C) New or amended Rule 3.13.

* * * * *

(127) * * *

(i) * * *

(B) Amended Regulation 3: Rules 3–102, 3–302, 3–302.1, 3–303, and Schedule A.

(ii) Fresno County APCD.

(A) Amended Rules 406 and 408.

(iii) North Coast Unified AQMD.

(A) New Rule 350.

(iv) Imperial County APCD.

(A) Amended Rule 409.

(v) Monterey Bay Unified APCD.

(A) Amended Rules 300, 301, and 601.

(vi) San Luis Obispo County APCD.

(A) Amended Rule 302.

(vii) South Coast AQMD.

(A) New or amended Rules 301.1, 302, 303, and Resolutions 82–23 and 82.35.

(viii) Ventura County APCD.

(A) New or amended Rule 41.

* * * * *

[FR Doc. 83-31137 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 79-252; FCC 83-481]

Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order lifts unnecessary regulatory burdens from certain classes of carriers with the intent of promoting competition and lowering costs. The order applies streamlined regulation to domestic satellite carriers, miscellaneous common carriers, Western Union, international record carriers, and interstate carriers affiliated with exchange telephone companies (except resellers). It applies forbearance to domestic satellite resellers, resellers affiliated with exchange telephone companies, and specialized common carriers.

EFFECTIVE DATE: November 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, (202) 632–6910.

List of Subjects in 47 CFR Part 63

Communications common carriers, Commom carrier facilities.

Fourth Report and Order

In the matter of policy and rules concerning rates for competitive Common Carrier Services and facilities authorizations therefor (CC Docket No. 79-252)

Adopted: October 19, 1983.

Released: November 2, 1983.

By the Commission.

I. Introduction

1. This proceeding was instituted to allow us to adjust our common carrier tariff and facilities authorization requirements in light of the entry of new suppliers of interexchange telecommunications services. *Notice of Inquiry and Proposed Rulemaking*, 77 FCC 2d 308 (1979) *(Notice)*. In the *First Report and Order*, 85 FCC 2d 1 (1980) *(First Report)*, we established two classes of common carriers, dominant and non-dominant. The non-dominant carriers are those lacking market power and, therefore, lacking the ability to set prices contrary to the goals of the Communications Act of 1934. We found that regulatory requirements for non-dominant carriers could be reduced or "streamlined," removing costly regulatory burdens without abandoning our mandate under the Act.[1] We have taken a step-by-step approach to the classification of carriers as non-dominant. In the *First Report*, specialized common carriers and terrestrial resellers[2] were classified as non-dominant and received streamlined regulatory scrutiny for all services they provide in the continental United States.

2. In the *Further Notice of Proposed Rulemaking*, 84 FCC 2d 445 (1981) *(Further Notice)*, we proposed a more careful delineation of relevant markets for analysis of carriers' market power. We reviewed the language and legislative history of the Act and tentatively concluded that the Title II regulatory scheme was intended to prevent the exercise of substantial market power, not necessarily applying fully to all companies offering telecommunications services. When applied to carriers without market power, this regulatory scheme thwarts the goals of the Act by fostering inefficiencies and imposing costs on carriers and consumers without offsetting benefits to consumers. Consequently, we proposed to remove these regulatory requirements for non-dominant carriers.

3. In our *Second Report and Order*, 91 FCC 2d 59 (1982) (*Second Report*), *recon.* FCC 83-69 (released March 21, 1983), we concluded that we have the authority to forbear applying particular Title II tariff-filing and facilities-authorization regulations when such forbearance furthers statutory purposes; in particular, we decided to forbear applying such regulation to terrestrial resellers.[3] Carriers treated by forbearance remain subject to other Title II regulation, including the obligation to charge just, reasonable, and non-discriminatory rates under Sections 201-202 and the Section 208 complaint process. The geographic scope of the reduced regulation ordered in the *First Report* and *Second Report* was expanded to include Alaska on reconsideration of the *Second Report*, FCC 83-69 (released March 21, 1983), and to include Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points by order of the Common Carrier Bureau, acting on delegated authority.[4]

4. We have before us petitions for reconsideration of our determinations in the *First Report* as well as comments and reply comments to the *Further Notice* and *Second Further Notice*. In this Order, we take a further step in classifying certain additional carriers as non-dominant, but we do not address all the petitions before us;[5] some are left for

---

[1] Under the rules for non-dominant carriers, their tariff filings are presumed lawful and a petitioner seeking suspension must demonstrate generally that the injury to competition from allowing the tariff proposal to become effective is greater than the harm to the public from depriving it of the service proposed. In addition, these carriers are permitted to file tariffs on 14 days notice (rather than up to ninety), and are not required by our rules to submit extensive economic support data. They also have been granted authority under Section 214 of the Act to install or lease additional circuits over previously-authorized transmission facilities (radio and non-radio) anywhere in the contiguous 48 states, limited only by the requirement that they inform the Commission every six months of these additions. Finally, when notice has been served on customers, an application by a non-dominant carrier to discontinue service will be granted automatically on the 31st day after its filing unless the Commission notifies the applicant to the contrary.

It is costly for carriers to prepare tariff and facilities-authorization filings under our rules for dominant carriers, 47 CFR 61, 63 (1982). Also, requiring authorizations pursuant to our rules for dominant carriers can delay implementation of services and facilities that would benefit consumers. Finally, these filings can impede entry, impair competitive pricing, and facilitate collusive conduct. *See* United States v. United States Gypsum Co., 438 U.S. 422, 457 (1978) ("the exchange of price information among competitors carries with it the added potential for the development of concerted price-fixing arrangements which lie at the core of the Sherman Act's prohibitions"); Ethyl Corp., 3 Trade Reg. Rpts. para 22,003 (F.T.C. 1983) (advance notice of price increases impeded discounts and facilitated collusion).

[2] In the *First Report*, 85 FCC 2d at 28 & n.69, we characterized specialized common carriers as providers of terrestrial voice and data services, and included the following carriers in this category for purposes of this rulemaking: MCI Telecommunications Corporation, Southern Pacific Communications Company, United States Transmissions Systems, Inc. (USTS), Goeken Communications, Inc., and Western Tele-Communications, Inc. The treatment of specialized common carriers in this rulemaking is not limited to these named carriers. We defined resellers as carriers that lease all of the circuits that they use to provide service to their customers from underlying carriers. *Id.* at 29. Furthermore, we defined miscellaneous common carriers as carriers that relay video signals and their corresponding audio components by terrestrial microwave links. *Id.* at 27. To the extent that direct broadcast service providers may be considered to operate as common carriers, they will be treated under the regulatory scheme established in this Order for domestic satellite carriers and domestic satellite resellers.

[3] Forbearance involves less disclosure to competitors of carriers' rates and tariff conditions than streamlined regulation. Consequently, forbearance eliminates a potential vehicle for collusive conduct and facilitates price discounting. *See* note 1 *supra*.

[4] Third Report and Order, Mimeo 012 (released October 6, 1983) (*Third Report*). So that our Rules will conform with the policy adopted in the Bureau's *Third Report*, we are amending § 63.07 of the Rules (47 CFR 63.07) as set forth in the attached Appendix. The notice and comment requirements of 5 U.S.C. 553(b) have already been satisfied for this change by the Bureau's Third Further Notice of Proposed Rulemaking, Mimeo CC 33457 (released June 14, 1983), 48 FR 28282 (June 21, 1983). This change became effective immediately upon publication of the *Third Report* in the **Federal Register**. *Third Report* at 5 n. 9.

[5] We address here the petitions of General Telephone and Electronics Corp. (GTE) and the United States Independent Telephone Association (USITA) for non-dominant treatment of independent telephone companies; petitions of Andrews Tower Rental, East Texas Transmission Company, Hi-Desert Microwave, Pilot Butte Transmission Company, Gordon & Healy, United Video Inc., (United Video), and Western Tele-Communications, Inc., for non-dominant treatment of miscellaneous common carriers; the petitions of ISA Communications Services (ISACOMM), Southern Satellite Systems, Transponder Corp. of Denver, and United Video for non-dominant treatment of domsat resellers; petitions of the National Telecommunications and Information Administration (NTIA) and Western Union Telegraph Company (WU) for non-dominant treatment of WU; petitions of Satellite Business Systems (SBS), American Satellite Company, and RCA American Communications, Inc., for non-dominant treatment of domsats; and petitions of RCA Global Communications, Inc., U.S. Department of Justice, and ITT World Communications, Inc., for non-dominant treatment of the domestic services of international record carriers (IRCs). We issued a *Second Further Notice of Proposed Rulemaking*, FCC 82-187 (released April 21, 1982), 47 FR 17308 (April 22, 1982), in which we sought comment on treatment of the domestic operations of IRCs as non-dominant. Over sixty parties filed comments after we issued the *Further Notice*. But, we do not address here the petitions of American Telephone and Telegraph Company (AT&T) and MCI International Telecommunications Corp. for non-dominant treatment of certain international services, or AT&T's Petition for Further Rulemaking for non-dominant treatment of specialized satellite services. We will seek comments on AT&T's petition regarding domestic specialized satellite services in the context of the Inquiry into long-run regulation of AT&T's basic domestic interstate services adopted today. FCC 83-482.

future resolution and we express no opinion on their merits here.

5. This Order clarifies the analysis on which our determinations in this proceeding are based and finds that the following carriers lack substantial market power in interstate, domestic, interexchange telecommunications services: miscellaneous common carriers (MCCs); domestic satellite carriers (domsats); domsat resellers; domestic operations of WU, international record carriers, and other record carriers; and interexchange carriers affiliated with exchange telephone companies.[6] We classify these carriers as non-dominant, along with specialized common carriers and terrestrial resellers previously classified as non-dominant. We conclude that streamlined regulation should be applied to all these carriers not treated by forbearance in their interstate, domestic, interexchange services (including domestic services to Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points). Further, we conclude that we should forbear regulating all resellers, including domsat resellers and resellers affiliated with exchange telephone companies, and specialized common carriers.

II. Methods of Market Power Analysis

A. Definition of Market Power

6. As we explained in the *First Report* and *Second Report*, full regulatory scrutiny under Title II of firms lacking market power can impose costs on these firms and consumers without offsetting benefits.[7] We do not believe that such regulation promotes the purposes of, or is required by the Communications Act. Identification of firms to which we will apply streamlined Title II regulation depends on a clear definition of market power. In addition, the analysis of domsats and domsat resellers in this Order requires that we discuss the relationship of economic rents to market power. The application of the analysis in paras. 8–11 to domsats and domsat resellers will be discussed in para. 21.

7. The basic concept of market power is "the ability to raise prices by restricting output."[8] In a competitive market, a firm finds it unprofitable to restrict its output; if it did, some of its potential buyers simply would turn to alternative suppliers which stand ready to sell to them at the competitive price. A decision by a firm lacking market power to restrict its output does not significantly lessen output in the market, and thus does not raise prices in the market. In contrast, a firm possessing market power may find it profitable to restrict its output to a level below what it would supply in a competitive market. Without sufficient close alternative suppliers, enough of its potential buyers will pay a supracompetitive price for the smaller output that the firm's total profits will rise. In this case, the firm has the ability to restrict market output, raise market prices, and impair consumers' welfare.[9]

8. Another, consistent definition of market power focuses on the ability to raise and maintain price above the competitive level without driving away so many customers as to make the increase unprofitable.[10] For purposes of this test, the competitive price is based on opportunity cost, not historical cost.[11] In some markets, a firm earns "economic rents" because it possesses a scarce resource obtained at less than its current market value (opportunity cost).[12] Its average cost of production, based on historical cost, may be lower than that of other firms in the market because of the scarce resource. But, these rents should not be confused with profits attributable to market power. The difference is that monopoly profits generally result from artificially decreased market output while economic rents do not.[13] Consider the price at which the quantity supplied in the market equals the quantity demanded. Suppose that the output of a firm possessing a scarce resource cannot at that price satisfy the entire

---

[6] Exchange telephone companies include independents and the Bell Operating Companies. The extent to which the BOCs provide interstate services is restricted by the Modified Final Judgment and the delineation of LATAs. *See* United States v. AT&T, 524 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983). This Order analyzes the market power of carriers in interstate, domestic, interexchange services. This Order does not streamline the regulatory scrutiny under Title II of the BOCs' intraLATA, interstate services, treated as exchange services by the MFJ. It is likely that the BOCs will face less competition in intraLATA services than in any interLATA services they are allowed to engage in under the MFJ or by waiver thereof. It is possible that we will streamline our regulation of the BOCs' interstate, intraLATA services in a subsequent order if we find that the BOCs face substantial competition in these services.

[7] 85 FCC 2d at 20; 91 FCC 2d at 67. The Commission's overriding responsibility is to promote the public interest, not just to maximize competition. Competition can promote the public interest by preventing "supracompetitive price pressures that the Commission might not be able to perceive or control" and by spurring "greater technological advances and more efficient operations." United States v. FCC, 652 F.2d 72, 104 (D.C. Cir. 1980).

[8] II P. Areeda & D. Turner, Antitrust Law 322 (1978); Broadcast Music v. Columbia Broadcasting System, 441 U.S. 1, 20 (1979) (holding that a price fixing arrangement that did not restrict output was not a *per se* violation of the antitrust laws). Market power can be possessed by a firm or by a group of firms acting jointly. Economists generally assume that there is an inverse relationship between the quantity of a product produced and the market-clearing price. If a firm with market power restricted its output, the market-clearing price (the price which equates the decreased amount supplied with the quantity demanded) would rise above the competitive level; the firm would be able to sell the decreased amount of output at a higher price. If a firm with market power raised its price, the quantity of its product demanded and hence its sales (output) would fall. Competitive firms produce the amount of output at which their marginal cost equals the competitive price. This definition of market power refers to restrictions of output below this amount.

[9] *See* Reiter v. Sonotone Corp., 442 U.S. 330, 343 (1979) ("Congress designed the Sherman Act as a 'consumer welfare prescription,' "*quoting* R. Bork, The Antitrust Paradox 66 (1978)). The antitrust laws are a component of the public interest standard in the Communications Act. United States v. FCC, *supra* note 7, 652 F. 2d at 81–82.

[10] Landes & Posner, *Market Power in Antitrust Cases*, 94 Harv. L. Rev. 937 (1981); Valley Liquors, Inc. v. Renfield Importers, Ltd., 678 F.2d 742, 745 (7th Cir. 1982); H&B Equipment Co., Inc. v. International Harvester Co., 577 F.2d 239, 243 (5th Cir. 1978); I A. Kahn, The Economics of Regulation 65–66 (1970).

[11] To illustrate this distinction, the opportunity cost of using a satellite transponder to provide a given service is what society must give up to have the transponder used for this service instead of the next-most valuable service (the transponder's current fair market value absent regulation); the transponder's historical or book value reflects what the supplier paid to make the transponder operational. Among the factors which cause the opportunity cost of using transponders to depart from their historical cost is that there was no charge for scarce orbital slots, there have been impovements in the technology for using transponders, and there have been changes in the supply of and demand for transponders. According to Professor Stigler, "the cost of any productive service to use A is the maximum amount it could produce elsewhere. The foregone alternative is the cost." G. Stigler, The Theory of Price 105 (3rd ed. 1966). Our use of marginal cost based on opportunity cost is limited to evaluating a firm's market power; we do not adopt this standard for purposes of determining the cost of a service provided by a dominant carrier. Our cost allocations for ratemaking purposes remain unchanged. *See* AT&T, Manual and Procedures for the Allocation of Costs, 84 FCC 2d 384, *reconsid.*, 86 FCC 2d 667 (1981), *aff'd sub nom.* MCI Telecommunications Corp. v. FCC 675 F.2d 408 (D.C.) Cir. 1982, *revised*, FCC 83-374 (released Aug. 22, 1983.)

[12] Professor Areeda explains economic rents as follows: Suppose firm Q has lower production costs and higher profits than the other firms in its industry. "If Q attempts to increase his output, his costs on incremental output will approach those of his competitors. Q might, for example, refine copper from high grade ore deposits; to expand production he might have to turn to ordinary ore which would mean customary costs and profits. In this case, Q does not control the market. (His high profits are said to be 'economic rents.')" P. Areeda, Antitrust Analysis 243 (3rd ed. 1981).

[13] In discussing a coal severance tax, the Ninth Circuit noted that "[e]conomic rent is the amount of revenue that can be extracted from an activity, here in the form of royalties and taxes, without significantly discouraging production." Crow Tribe of Indians v. Montana, 650 F. 2d 1104, 1113 n.12 (9th Cir. 1981), *mod.* 665 F. 2d 1390 (9th Cir. 1982). *See also* S. Breyer, Regulation and its Reform 21 (1982). Monopoly profits do not decrease market output when the monopolist engages in perfect price discrimination.

market demand. Since the market price would be determined by the higher-cost firms that account for the remaining output, the firm would earn supracompetitive profits (economic rents) based on its historical cost. But, it would *not* be profit maximizing for the firm to supply less than it would if it were unable to earn economic rents. It would produce the amount at which price is based on opportunity cost. Any attempt to produce less would simply allow other suppliers to expand their output or enter at the going price. Under these conditions, the firm lacks market power. The supracompetitive-price approach to defining market power must be applied precisely so that economic rents are distinguished from monopoly profits, *i.e.*, so that price reflects opportunity rather than historical cost.

9. To illustrate the relationship between economic rents and output, suppose that a wheat farmer has cheap, unusually-fertile land but produces only a small share of the wheat available to his buyers. Perhaps he acquired the land from a seller that did not recognize its fertility, resulting in a cost to the farmer below its fair market value; at that cost, the farmer will be able to earn economic rents.[14] He can sell his profit-maximizing output at the competitive price (determined by the marginal cost of his rival farmers) and earn high profits viewed from the perspective of his historical costs. If he restricts his output and attempts to charge a supracompetitive price (above the marginal cost of his rival farmers), potential buyers will turn to other farmers charging the competitive price. Market output and prices will not be affected by this action, leading to the conclusion that the farmer lacks market power even though he can earn economic rents (high profits). The farmer could not increase his profits by restricting his output to less than he would have produced at the competitive price. The scarce resource is efficiently utilized even though the farmer earns high profits.

10. The distinction between economic rents and monopoly profits also can be analyzed from the perspective of consumers' welfare. While cost-based rate regulation can attempt to eliminate one producer's economic rents, such regulation will not benefit consumers unless it controls each link in the chain of supply. Returning to the farmer who can earn economic rents, suppose that his wheat is sold to a grain dealer at the market (competitive) price, then to a processor, then to a wholesaler, then to a retailer, and finally to consumers. Rate regulation can attempt to restrain the farmer's profits to a competitive level by valuing his land at less than its fair market value (opportunity cost), such as at his historical cost, and requiring that he lower his price. But, then the grain dealer buying from this farmer will acquire wheat at below the market price. The grain dealer's rivals will buy from farmers charging the higher, market-clearing price. The arrangement allows this grain dealer to earn economic rents in selling at the market-clearing price to processors unless rate regulation also covers his activities. The same analysis applies further down the chain of supply. Consumers will benefit from regulation of the farmer's potential economic rents only if regulation covers all activities from farming to retailing, inclusive. In the absence of such regulation, it does not harm consumers to allow the farmer to earn economic rents; if he doesn't, someone else will and the price paid by consumers ultimately will be determined by market forces involving the entire chain of supply.[15] On the other hand, suppose that the farmer is a monopolist and the other links in the chain of supply are all competitive. Regulation which prevents only the farmer from earning monopoly profits will lower prices to consumers; there will be no opportunity for any other supplier to earn supracompetitive profits.

11. Another distinction between regulation of economic rents and of monopoly profits goes to the selection of buyers for the output of the regulated firm. Regulation of economic rents results in one firm's output priced below the market level. Demand for the firm's product at that price would exceed its output. A method for allocating its output would have to be developed. What characteristics of potential buyers should be evaluated? How are buyers chosen? Lucky buyers from this low-priced firm would earn windfall profits. Generally, economic efficiency is promoted by allowing a scarce product to be allocated among potential buyers by price; potential buyers will bid up the price until demand equals supply and the product will go to firms who will make the most productive use of it or to consumers who will derive the greatest benefit from it.[16] For a firm with a scarce resource but without market power, demand for its product equals its supply (output) at the competitive price, which the firm would have charged in the absence of regulation. In contrast, regulation of monopoly profits results in a price level which equates supply and demand and does not create allocation problems as long as the regulated price equals the competitive price.

12. To summarize paragraphs 8–11, regulation of firms that can earn economic rents does not promote the public interest in efficient allocation of resources as may regulation of firms able to earn monopoly profits by restricting output. Rather, regulation eliminating a firm's ability to earn economic rents does not increase output;[17] does not decrease prices to

[14] Acquisition of a scarce license or franchise at a price below its market value leads to an analogous result.

[15] The Federal Energy Regulatory Commission (FERC) encountered a similar problem of flow through to intended beneficiaries under the Natural Gas Policy Act of 1978. FERC expressed its preference for "end-use" plans to distribute natural gas according to the needs of the ultimate consumers. However, since such "plans only covered direct customers of interstate pipelines, there was no assurance that natural gas allocated to a distributor based on the high priority status of his customers would actually reach the preferred end-users." Process Gas Cosumers Group v. United States, 694 F.2d 778, 784 (D.C. Cir. 1982). In Reynolds, *A Free Market in Energy*, in R. Poole, Jr. (ed.), Instead of Regulation 67, 74 (1982), the author observed:.

> Trying to keep the prices of gasoline down by holding down the price of domestic crude oil was always quixotic—like trying to keep the prices of steel appliances down by holding down the price of domestic iron ore. There are too many steps in processing iron ore. There are too many steps in processing and distributing to ensure that the full effect will be passed on to final consumers. Holding down the price of domestic crude oil may lower the costs of those engaged in refining or marketing and may also affect the markets for foreign crude oil or refined products, but it is far from obvious that ultimate consumers will capture the whole difference between the controlled and uncontrolled price of crude oil.

[16] *See* M. Friedman, Price Theory 17–18 (1976); R. Leftwich, The Price System and Resource Allocation 344–47 (5th ed. 1973); I. A. Kahn, *Supra* note 10, at 65–66. In Breyer & MacAvoy, *The Natural Gas Shortage and the Regulation of Natural Gas Producers*, 86 Harv. L. Rev. 941 (1973), the authors concluded that the Federal Power Commission's tiered or vintaged regulation of producers' prices resulted in a shortage of natural gas which was borne disproportionately by home consumers.

> To make [classifications of end-users' needs] without reference to users' "willingness to pay," as measured by prices bid by users for the low-priced gas, is difficult, to say the least. In short, tier price regulation requires extraordinary sensitivity to changes in supply in order to react with necessary price changes, and, even in the best conditions, it requires also a complicated rationing procedure.

Id. at 951. Some of the problems of administering a non-price rationing scheme for scarce resources were discussed in State of North Carolina v. FERC, 584 F.2d 1003 (D.C. Cir. 1978). *See also* Reynolds, *supra* note 15, at 78 (oil controls imposed on the U.S. economy a sizeable loss of efficiency).

[17] On the contrary, regulation eliminating economic rents can shrink supply. Referring to housing rent control, Breyer and MacAvoy observed that "it is extraordinarily difficult to bring about the transfer of excess profits [from owners to tenants] without affecting output [discouraging new building]." Breyer & MacAvoy, *supra* note 16, at 951. "In the long run houses can be built and maintained only with resources that have many other uses, and

Continued

consumers when unregulated intermediate suppliers are present; and can create difficult allocation problems and resulting inefficiencies. We will return to the discussion of economic rents in our analysis of domsats and domsat resellers, para. 21 *infra*.

B. Definition of the Relevant Market

13. Inferences about a firm's market power can be drawn from a variety of indicia, none of which is perfect. Rough indicators of a firm's market power often used by courts are the level [18] and change [19] in its share of a relevant market, and barriers to entry into the relevant market.[20] A relevant market, or "area of effective competition,"[21] has product and geographic dimensions. Relevant markets should be delineated to include close demand and/or supply substitutes for a firm's product.[22] This section explains our finding that, for purposes of assessing the market power of the carriers covered by this proceeding,[23] (1) interstate, domestic, interexchange telecommunications services comprise the relevant product market, and (2) the United States (including Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points) comprises the relevant geographic market for this product, with no relevant submarkets.[24]

Relevant Product Market

14. We first turn to the relevant product market, the set of services which check the ability of a carrier to restrict its output of a service and thereby raise its price. In the *Further Notice*, we tentatively found that there are three product markets for interstate, domestic interexchange telecommunications services—MTS/WATS, private line, and public switched record.[25] Many parties criticized this tentative finding for departing from the analysis of supply and demand substitutes in defining relevant markets.[26] We now believe that these different types of interstate, domestic, interexchange telecommunications services are in the same product market because they are close demand and/or supply substitutes. For reasons described *infra*, we find that—for purposes of assessing the competitive checks on the prices charged by the carriers covered by this processing—all interstate, domestic, interexchange telecommunications services comprise a single relevant product market with no relevant submarkets.

15. Regarding demand substitutability, we recognized in *Second Computer Inquiry* [27] and *MTS/WATS Market Structure* [28] that many consumers substitute to public switched telecommunications services (MTS/WATS) from private line and public switched record services. There is also substantial substitution from MTS/WATS to private line and public switched record services. Nor do different transmission media demarcate different product markets; in *Satellite Business Systems* [29] we found that services provided by satellite and terrestrial communications systems are reasonably interchangeable to many customers. Increasingly, customers purchase bandwidth capacity, not a service for a specific type of transmission or a service provided by a specific tramsmission medium. Many carriers offer integrated voice/data/facsimile/video communication services. We find that customers switch among types of services and suppliers in response to their relative mixes of quality and price. [30] While there may be some limits to demand substitutability for certain services, there are sufficient demand or supply linkages to justify treating them as being in a single product market. We will consider some specific cases of demand substitutability later in this section.

16. The key fact regarding supply substitutability is that there are low barriers to entry across services. We concluded in the *Further Notice* that, within very broad limits,

---

no scheme of financing can avoid the alternative costs of these resources." G. Stigler, *supra* note 11, at 108.

[18] *See, e.g.*, United States v. Grinnell Corp., 384 U.S. 563, 571 (1966); Broadway Delivery Corp. v. United Parcel Service of America, 651 F.2d 122, 129 (2d Cir.), *cert. denied*, 454 U.S. 968 (1981) ("a market share below 50% is rarely evidence of monopoly power, a share between 50% and 70% can occasionally show monopoly power, and a share above 70% is usually strong evidence of monopoly power"); Ron Tonkin Gran Turismo v. Fiat Distributors, 637 F.2d 1376, 1387 (9th Cir.), *cert. denied*, 454 U.S. 831 (1981) (firm with a very small share of the relevant market [total automobile sales] has insignificant market power); U.S. Department of Justice, *Merger Guidelines—1982*, 2 Trade Reg. Rptr. (CCH) para. 4500; Landes & Posner, *supra* note 10, at 938.

[19] A declining market share may indicate the absence of market power. Greyhound Computer v. IBM, 559 F.2d 488, 496 n.18 (9th Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978); United States v. International Harvester Co., 274 U.S. 693, 709 (1927); United States v. United States Steel Corp., 251 U.S. 417, 439 n.1 (1920).

[20] Successful entry indicates that the market shares of existing carriers are falling and that those carriers have not excluded competition, suggesting the absence of market power. *See, e.g.*, U.S. Department of Justice, *supra* note 18, at para. 4503; ILC Peripherals v. IBM, 458 F. Supp. 423, 431 (N.D. Cal. 1978), *aff'd per curiam sub nom.* Memorex Corp. v. IBM 636 F.2d 1188 (9th Cir. 1980), *cert. denied*, 452 U.S. 972 (1981); In re IBM Peripheral EDP Devices Antitrust Litigation, 481 F. Supp. 965, 981–82 (N.D. Cal. 1979), *aff'd sub nom.* Transamerica Computer Co. v. IBM, 698 F.2d 1377 (9th Cir. 1983); United States v. FCC, *supra* note 7, 652 F.2d at 106; Domestic Fixed-Satellite Transponder Sales, 90 FCC 2d 1238, 1254 (1982), *appeal pending sub nom.* World Communications, Inc. v. FCC, D.C. Cir. No. 82–2054 (appeal filed Sept. 10, 1982); P. Areeda, *supra* note 12, at 20–22, 242–43

[21] Standard Oil Co. v. United States, 337 U.S. 293, 299–300 n.5 (1949). *See also* United States v. E.I. du Pont de Nemours & Co., 351 U.S. 377, 395 (1956).

[22] *See, e.g.*, U.S. Department of Justice, *supra* note 18, at para. 4502; United States v Continental Can, 378 U.S. 441 (1964); *du Pont*, *supra* note 21, 351 U.S. at 394; United States v. Columbia Steel Co., 334 U.S. 495, 510–11 (1948); Twin City Sportservice v. Charles O. Finley, 512 F.2d 1264 (9th Cir. 1975); Spectrofuge v. Beckman Instruments, 595 F.2d 256 (5th Cir. 1978), *cert. denied*, 440 U.S. 939 (1979); Landes & Posner, *supra* note 10, at 944–52; F. Scherer, Industrial Market Structure and Economic Performance 60–61 (2d ed. 1980).

[23] The carriers covered by this proceeding are MCCs, domsats; domsat resellers; domestic operations of WU, IRCs, and other record carriers; interexchange carriers affiliated with exchange telephone companies; specialized common carriers; and terrestrial resellers.

[24] Different relevant markets may be appropriate when assessing the market power of other carriers because their buyers may face a different set of demand and supply substitutes. For example, this geographic market is clearly inappropriate for assessing the market power of carriers in their international services. Pursuant to our step-by-step approach in this rulemaking, we do not consider here the appropriateness of applying this market definition in assessing the power of AT&T. The appropriate market definition for assessing the power of AT&T will be examined in the AT&T Inquiry adopted today. FCC 83–482.

[25] 84 FCC 2d at 501.

[26] *See, e.g.*, SBS Comments on Further Notice 17, 23 ("While [MTS] is normally viewed as a two-way voice telephone service, it is in fact capable of handling and does handle data, record, and facsimile communications requirements as well, without modification . . . . [MTS is] an effective substitute for most specialized or geographically limited voice, data, record, facsimile, and videoconferencing services whether of the dedicated private line or switched variety."); AT&T Comments on Further Notice 39; Western Union Petition for Reconsideration; NTIA Petition for Reconsideration; Department of Justice Comments on Second Further Notice; Comments of the Council on Wage and Price Stability (COWPS) 3; Comments of Central at 10. The only comment supporting three product markets comes from U.S. Telephone and Telegraph.

[27] 77 FCC 2d 384, 419, *reconsid.*, 84 FCC 2d 50 (1980), *further reconsid.*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer and Communications Industry Association v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983) ("More and more the thrust is for a carrier to provide bandwidth or data rate capacity adequate to accommodate a subscriber's communications needs, regardless of whether subscribers use it for voice, data, video, facsimile, or other forms of transmission.").

[28] 81 FCC 2d 177, 203 (1980), 48 FR 10319 (1983), *reconsid.*, FCC 83–356 (released Aug. 22, 1983).

[29] 62 FCC 2d 997, 1078–82 (1977), *aff'd sub nom.* United States v. FCC, *supra* note 7 (Satellite and terrestrial channels compete, as do analog and digital channels.).

[30] *See id.* at 1077–78 (tariff classifications need not be determinative of relevant market boundaries); AT&T Comments on Further Notice 39 ("most business customers could use MTS/WATS instead of private line if the price were right"). Customers can use the MTS network to provide for themselves services that we have placed in other markets. *See* comments cited in note 23 *supra*.

telecommunications transmission media—wire pairs, coaxial cable, terrestrial microwave, fiber optics, or satellite transponders and earth stations—can be adjusted readily to provide virtually any service efficiently.[31] The major limitation is that the facilities must have sufficient bandwidth to accommodate the desired service. Satellite and terrestrial facilities readily can be switched among voice, data, facsimile, and video services, private line and switched services, and point-to-point and point-to-multipoint services. While there may be some limits to supply substitutability for certain services, there are sufficient demand or supply linkages to justify treating them as being in a single product market. Some specific cases of supply substitutability will be considered later in this section.

17. The nationwide interstate telecommunications network essentially operated by AT&T is comprised almost entirely of high-capacity carrier systems with ample bandwidth to accommodate all varieties of services now offered.[32] In addition, specialized common carriers have substantial, rapidly-expanding, high-capacity transmission facilities.[33] These networks provide close demand and supply substitutes for the services of the carriers covered by this proceeding. Some carriers use satellite capacity to provide MTS/WATS and private line voice, data, record, and video services in competition with services provided by these networks' terrestrial facilities. Other carriers, including WU and the IRCs, provide a wide range of services by reselling facilities acquired from AT&T, independents, and specialized common carriers.[34] Finally, our interconnection and resale orders have significantly decreased barriers to entry into and expansion in all interstate, domestic interexchange services.[35]

18. We next consider some specific examples of demand and supply substitutability. In the *Further Notice*, we concluded that MCCs using terrestrial microwave systems face competition for carrying audio and video programming to cable TV systems and broadcasters from satellite resellers, Cable Television Relay Stations (CARS), and direct over-the-air reception at the cable headend.[36] United Video's petition for reconsideration of our *First Report* and our recent experience with MCCs' tariff revisions and termination-liability charges as their customers turn to alternative suppliers support this conclusion.[37] For example, one cable TV operator, Teleprompter of Graham, Texas, receives signals off-the-air from affiliates of all three networks, receives Showtime Entertainment and WTBS (Atlanta) via satellite using its own earth station, and switched in 1979 from a MCC to CARS to receive Dallas-Ft. Worth television stations.[38] During recent years the number of cable television systems has grown sharply while the MCCs have grown little or even declined,[39] suggesting that there are effective alternatives to MCC services for cable TV systems. The number of satellite carriers and satellites carrying video signals has grown, and there are over 6000 receive-only earth stations serving cable TV systems and over 300 more serving broadcast stations.[40] Earth stations with the capability to receive signals from many satellites are available, and existing earth stations can be so modified without great cost.[41] ABC, CBS, and NBC are already distributing, or have announced plans to distribute, network signals via satellite.[42] After reviewing all of these facts, we reject claims that MCC services comprise a distinct relevant product market or submarket.[43]

19. Similarly, domsat and domsat-reseller services do not comprise a distinct relevant product market or submarket. Voice, data, record, and video services are offered by both satellite and terrestrial carriers in private line as well as switched, and point-to-point as well as point-to-multipoint arrangements. The costs of terrestrial and satellite transmission overlap for many services, depending on the service characteristics and origin-destination(s). The availability of

[31] 84 FCC 2d at 501. While there may be regulatory barriers to supply substitutability and entry in intrastate and foreign telecommunications services, we have removed many of these barriers in interstate, domestic telecommunications services.

[32] We found in Docket No. 18128 that when AT&T plans its facilities, it plans basic capacity that is only assigned to individual services as required. AT&T: Manual Procedures for the Allocation of Costs (CC Docket No. 79-245), 78 FCC 2d 328 (1980). For example, AT&T uses its T1 carrier system to provide its Dataphone Digital Service (DDS) at 1.544 Mbps or, using multiplexing, multiple data transmissions at lower speeds. It also uses the same facility for twenty-four 56 kbps voice channels for use in MTS/WATS services. Its terrestrial microwave radio facilities are used to provide a full range of services from video programming private line distribution to MTS/WATS. *See* Bell System, Engineering and Operations of the Bell System 333, 428-33 (1977).

[33] In 1982, the value of gross communications plant owned by specialized common carriers was about $1.4 billion. Letter from Common Carrier Bureau to Rep. Wirth, Chart 3 (July 8, 1983). Based on the analysis in the *First Report*, 85 FCC 2d at 28-29, we find that specialized common carriers and terrestrial resellers are in the relevant product and geographic markets defined in this Order.

[34] WU Reply Comments to Further Notice 9; RCAG FCC Form R86 (1981).

[35] Regarding switched record services, see WU Comments to Further Notice 13-17; Record Carrier Competition Act of 1981, 47 U.S.C. 222 (1983); Interconnection Arrangements Between and Among the Domestic and International Record Carriers, 89 FCC 2d 928, 91 FCC 2d 483 (1982), *review pending sub nom.* Western Union v. FCC, D.C. Cir. No. 82-1502 (filed May 4, 1982). *See also* Resale and Shared Use, 83 FCC 2d 167 (1980), *recon.*, 86 FCC 2d 820 (1981) (MTS/WATS Resale Decision); Resale and Shared Use, 60 FCC 2d 261 (1976), *recon.*, 62 FCC 2d 588 (1977), *aff'd sub nom.* AT&T v. FCC, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978); MTS/WATS Market Structure, Phase III (CC Docket No. 78-72) (released May 31, 1983).

[36] 84 FCC 2d at 511-14. *See also* Satellite Business Systems, *supra* note 29, 62 FCC 2d at 1079 (Satellite and terrestrial services compete for simultaneous transmission to multiple receivers.). In the *First Report*, 85 FCC 2d at 27-28, we observed that MCCs often provide service to remote points not served by other video interconnection methods. However, we also noted that there is declining demand for terrestrial video interconnection. We stated that we would revisit our regulation of MCCs in the near future to determine whether increased competition warranted streamlining for MCCs. We now find that competition justifies treating MCCs as non-dominant.

[37] "Within the last 36 months, 26 cable television customers have substantially reduced or terminated entirely their microwave service. Thus, out of approximately 100 total customers, over 20 percent have been lost to direct competition from satellite service." Urgent Petition of United Video, Inc., for Immediate Reconsideration 3 (Dec. 29, 1980). *See, e.g.* West Texas Microwave Co., FCC 83-307 (released July 6, 1983), *affirming* Mimeo No. 3497 (released April 22, 1982); Eastern Microwave, Mimeo No. 4351 (released May 25, 1983). *See also* Comments of Garden State (competition in supplying independent television signals).

[38] Television and Cable Factbook 1981-82 Edition (Services Volume) 1178-a; CARS license files; West Texas Microwave Co., FCC Form P, 1979, 1980. Teleprompter, in its Comments to the Further Notice at 33, cites its system in Graham, Texas, as subject to the market power of MCCs. The evidence shows that this cable system has close or even superior substitutes for MCCs.

[39] Between 1977 and 1981 the number of cable systems operating went from 3800 to 4600. FCC Annual Reports 1977, 1981. During the same period the video transmission revenues of the MCCs that are not also domsat resellers (*i.e.*, excluding Southern Satellite System, World Communications, Eastern Microwave, and United Video) fell from $22.3 million to $22.1 million. FCC Form P, 1977, 1981. *See also* United Video Petition, *supra* note 37, at 3 (because of competition from domsats, domsat resellers, and CARS, MCCs have few, if any, new customers).

[40] *See* notes 47-49 *infra*; Broadcasting 72 (March 28, 1983).

[41] *See* Reply comments of Home Box Office 19-23; Broadcasting (back cover) (Aug. 8, 1983) for advertisement of Antenna Technology Corp. regarding a multi-beam antenna that can simultaneously see all domestic statellites with consistent broadcast-quality performance. The ad states that this product has over 200 nationwide customers.

[42] Broadcast Management/Engineering 42, 50 (Jan. 1983); Satellite Week 2 (May 31, 1982).

[43] *See* Garryowen Corp. Comments and Reply Comments to Further Notice; Teleprompter Comments to Further Notice; NCTA Comments and Reply Comments to Further Notice.

terrestrial alternatives provides a competitive check on the quality/price mix offered for many satellite services.[44] Such services comprise a large portion of the services of domsats and domsat resellers. For example, SBS's MTS-like service (Skyline) competes closely with terrestrial MTS and MTS-like services provided by AT&T, specialized common carriers, and terrestrial resellers. Also, many point-to-point private line services are priced similarly by satellite and terrestrial carriers.

20. Domsats and domsat resellers have a cost advantage over terrestrial carriers for some services, such as certain point-to-multipoint video services (supplying cable TV systems).[45] But, as explained in paras. 8–9, this does not mean that these satellite services comprise a separate relevant product market. Nor does it mean that any domsat or domsat reseller has market power. There is close supply substitutability between using many transponders for point-to-point and point-to-multipoint services; flexibility is inherent in satellite technology. Many domsats supply transponders under the same tariff for any usage. Some satellites carry a wide variety of services for a wide variety of origin-destination arrangements.[46] Total satellite usage is split, with large amounts of voice, data, facsimile, and video transmissions and different distribution arrangements. New entry is occurring into all aspects of satellite services.[47] Furthermore, earth stations capable of receiving signals from many satellites have increased intersatellite competition.[48] If one satellite system attempted to earn supracompetitive profits for, say, point-to-multipoint video services, the transponders of other satellites—previously used for, say, a point-to-point data private line service and priced in close competition with terrestrial alternatives for that service—would be available to supply those services. This supply substitutability among satellite services would drive the price for point-to-multipoint video services down toward the competitive level. For these reasons, all satellite services are in the same relevant product market. As explained in the preceding paragraph, that relevant product market includes terrestrial carriers which check the prices for many satellite services.

21. The preceding analysis of satellite carriers is complicated somewhat by the occurrence in the past of periods during which demand for satellite services at their regulated rates exceeded the capacity of operational satellites. Supply is increasing rapidly through the expansion of existing systems and new entrants.[49] We recently observed that it appears unlikely that future satellite services will have excess demand when they are priced to yield a competitive rate of profit.[50] If demand does not exceed supply at those prices, satellites will compete with terrestrial carriers for a wide range of services. Suppose, however, that excess demand would occur for satellite services at those prices during some (perhaps short) period of time. In the absence of historical-cost-based rate regulation, satellite carriers could raise their prices so as to earn economic rents. Their high profits would be attributable to the use of scarce resources (satellites and orbital slots) which produce a cost advantage over rival suppliers (terrestrial carriers). Yet, the possible emergence of economic rents for satellite carriers does not warrant placing any or all of them in a separate relevant product market and concluding that domsats possess market power.[51]

---

[44] *See* Comments of American Satellite, stating that satellite services must be priced substantially below comparable terrestrial services offered by AT&T to attract customers, effectively eliminating the margin between satellite transmission costs and prices for satellite services.

[45] *See First Report*, 85 FCC 2d at 26–27. Various parties argued that domsat and domsat resellers operate in a separate market for video programming distribution to cable TV systems and that there are barriers to entry into that market. Comments of NCTA, Post-Newsweek, Wold, Hughes Television Network, Viacom, Teleprompter, Eastern Microwave, and Warner Amex. As discussed in para. 18 *supra*, domsats' services, terrestrial carriers' services, and over-the-air transmissions compete in many areas. As ABC, CBS, and NBC shift from terrestrial to satellite distribution (see note 42 supra), the ability of terrestrial carriers to provide point-to-multipoint services to new customers will increase because the carriers will have more spare capacity.

[46] As examples of multi-use satellites, *see* Letter from R. Jacobsen (V.P.-Network Engineering, AT&T) to R. Lepkowski (Chief, Satellite Radio Branch, FCC) on AT&T's satellite usage, p. 6 (Nov. 5, 1982) (same transponders could be used for public switched network and special services, including satellite television service); AT&T: Satellite Television Service, 87 FCC 2d 889, 895 (1981) (allocation of total satellite costs where different transponders used for different services). AT&T's satellite facilities help check the market power of the carriers covered by this proceeding; we express no opinion on AT&T's market power here. *See* AT&T Notice of Inquiry, FCC 83–482.

[47] AT&T in its Petition for Further Rulemaking at 9 presents the following data on FCC approved satellites and transponders: for 1982, 4 carriers, 17 satellites, and 300 transponders; for 1984, 8 carriers, 26 satellites, and 594 transponders; and for 1987, 11 carriers, 39 satellites, and 918 transponders. Brief descriptions of the activities of various domsats appear in *id.* at Appendix B. Ownership of satellite facilities is becoming unconcentrated through new entry and transponder sales. We stated in Domestic Fixed-Satellite Transponder Sales, 90 FCC 2d 1238, 1249, 1255 n.40, 1262–65 (1982), that users at that time could select from four different satellite systems, with four others to be introduced by 1985. Also, 15 different parties purchased the 34 transponders then sold. *See* notes 48 and 49 *infra*.

[48] *See* note 41 *supra*. We reject claims that the services of RCA Americom's SATCOM I comprise a relevant product market. Eastern Microwave Comments 2. *See* RCA American Communications, 89 FCC 2d 1070, 1073 (1982). For example, WU's Westar III and Hughes's Galaxy I both carry cable TV programming. In addition, some purchased tranponders can be used to carry video signals. Domestic Fixed-Satellite Transponders Sales, 88 FCC 2d 1419, 1421 (1982) (Hughes proposed to sell 18 of the transponders on Galaxy I to selected programmers exclusively for the purposes of providing video programming primarily to cable TV systems). *See* Reply Comments of Home Box Office 11–23, stating that RCA American had a dominant position until recent increases in satellite capacity and capability of cable system operators to have access to multiple satellites.

[49] *See* note 47 supra; Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service (1983) (authorizing the construction of 19 additional domestic fixed satellites and the launch of 19 new or previously constructed satellites, increasing the number of authorized in-orbit satellites to 38 by 1987); Licensing of Space Stations in the Domestic Fixed-Satallite Service (CC Docket No. 81–704) (1983); Domestic Fixed-Satellite Transponder Sales, *supra* note 47, 90 FCC 2d at 1254 ("The entry of new firms and the rapid expansion of capacity of both old and new firms in response to the previous temporary shortage is evidence of the competitiveness of the [the domsat] industry."); Orbit Deployment Plan, 84 FCC 2d 584 (1981). Many commenting parties did not anticipate the great increase in domsat capacity from our two-degree spacing order. *See, e.g.*, Comments of Flynn; Domestic Fixed-Satellite Transponder Sales, *supra* note 47, 90 FCC 2d at 1250 n. 28 (studies by ITT and WU in 1979 did not accurately account for the supply and technological advancements now occurring). *Compare* Reply Comments of Hughes 6–12 (transponder capacity will triple in next three years because of newly-authorized satellites, eliminating shortage of supply). In the *First Report*, 85 FCC 2d at 26–27, we noted that, in 1980, demand for transponder space exceeded supply, leading us to classify domsats as dominant. Since that time, advances in satellite technology, regulatory decisions, and new entry have greatly expanded satellite supply.

[50] Domestic Fixed-Satellite Transponder Sales, *supra* note 47, 90 FCC 2d at 1254. RCA Americom filed a revised tariff on June 10, 1983, with proposed rates for transponder leases substantially lower than its $13 million Fixed Rate offering filed on February 18, 1982. RCA Americom cited "a softening in the marketplace and general economic conditions." (Transmittal No. 454).

Present and future competition faced by domsats appear greater than past competition faced by domsats. We found unlawful various tariff revisions proposed by RCA Americom in 1980 and 1981. RCA American Communications, 84 FCC 2d 353 (1980), 86 FCC 2d 1197 (1981) (unfair alteration of long-term service tariffs); RCA American Communications, 84 FCC 2d 781 (1981), 86 FCC 2d 1208 (1981) (unjustified "bonus" allocation scheme given while there were many potential customers for the Comsat's transponders); RCA American Communications, 89 FCC 2d 1139 (1982) (discrimination in auction scheme). *See also* RCA American Communications, 74 FCC 2d 531 (1979) (Commission required domsat to tariff its transponder allocation procedures in response to complaints that the carrier's procedures were unreasonable in violation of Sections 201 and 202).

[51] *See* Twin City Sportservice, *supra* note 22, 512 F.2d at 1272 (food concession at baseball park part of the general concession franchise market even though baseball concessions produce the highest

Continued

Rates charged for terrestrial services would place a ceiling on rates for low-cost satellite services.[52]

As explained in paragraphs 8–11 *supra*, the ability to earn economic rents but not satisfy the entire market demand will not give satellite carriers the incentive to restrict their output or charge a price different than they would charge absent economic rents;[53] regulation of satellite carriers' profits will not necessarily benefit consumers;[54] and such regulation would generate difficult allocation problems (*e.g.*, long, inefficient queues).[55] The economic rents will encourage further expansion and entry of satellites, including through technological innovation in the use of transponders, spectrum, and orbital positions.[56] For all these reasons, we conclude that domsats and domsat resellers do not comprise a separate relevant product market or submarket. The same analysis applies to carriers providing satellite earth station services (uplinks and/or downlinks, but no satellite transmission channels). These carriers supply services and utilize facilities similar to, but more limited than, those of domsats and domsat resellers.

22. We also conclude that WU's domestic Telex/TWX and Mailgram record services have close demand substitutes and do not comprise a separate relevant product market or submarket. WU's comments have presented a great deal of evidence supporting the view that there are many reasonable demand substitutes for Telex/TWX, including (1) domestic teletypewriter exchange services of other carriers, such as IRCs, including IRCs' services interconnected with WU; (2) facsimile, sophisticated terminals, communicating word processors, and other forms of record telecommunications; (3) private line voice and data services; and (4) switched voice services offered by AT&T and other carriers. In their comments in this proceeding, WU, NTIA, and COWPS argue that these substitutes effectively constrain WU to price competitively. Telex/TWX overlaps in price, delivery time, and quality with other services for messages of various lengths, and there is a high rate of migration from Telex/TWX to other carriers' services.[57] WU has shown that most segments of its customer base employ or had employed a variety of alternatives to Telex/TWX, and many of its customers do not need access to the large number of terminals on the Telex/TWX network or the directory service. Entry, interconnection, and resale have increased the competition facing WU, especially after passage of the Record Carrier Competition Act in 1981.[58] We reject the view that only those services matching extremely detailed descriptions of the capabilities of Telex/TWX are in the same market, or that the large network of subscribers for Telex/TWX confers market power on WU.[59] For the same reasons, the domestic services of IRCs and other record carriers are in the same relevant market of interexchange telecommunications services.[60] Other domestic interexchange telecommunications services provided by WU are also in this relevant product market.

23. Exchange telephone companies have moved toward providing interexchange telecommunications services outside their partnership arrangements with AT&T Long Lines. As examples, Rochester Telephone Co. and Southland Telephone Co. resell AT&T's Wide Area Telecommunications Services (WATS) through their affiliates; United Telecommunications, Inc. has a controlling interest in ISA Communications, a resale carrier offering satellite digital communications services using Digital Electronic Message Service;[61] Continental Telecommunications, Inc. owns fifty percent of American Satellite; Central Telephone and Utilities Corp. (Centel) is participating in planning a network to connect cable companies in major metropolitan areas (Videopath); and we recently approved General Telephone & Electronics Corp.'s acquisition of

---

total concession revenues, highest per capita concession revenues, and highest profits in all sports).

[52] *See* note 44 *supra*.

[53] The Department of Justice and Federal Trade Commission commented in Domestic Fixed-Satellite Transponder Sales, *supra* note 47, 90 FCC 2d at 1254, that domsats lack the market power required to impair the reasonable availability of transponder supply.

[54] *Further Notice*, 84 FCC 2d at 507 (Because many domsat customers are resellers supplying cable systems and program distributors, "consumers may be receiving only minor benefits from a cost-based satellite transmission service").

[55] As general support for use of market-clearing prices to allocate scarce satellite resources, we have stated that "our policy of relying upon marketplace forces to shape the evolution of satellite telecommunications has proved very fruitful over the years." Domestic Fixed-Satellite Transponder Sales, *supra* note 47, 90 FCC 2d at 1249. RCA Americom's efforts to overcome allocation problems started with a first-come, first-served procedure, then a lottery, and later an auction. RCA American Communications, 89 FCC 2d 1139, 1141, 89 FCC 2d 1070, 1077 (1982). *See also AT&T: Satellite Television Service*, *supra* note 46, 87 FCC 2d at 639 (party questioned whether AT&T would implement its first-come, first-served allocation procedure fairly).

[56] *Id.* at 1254 (possible technical refinements to increase the number of services that can be provided within the limits of the usable spectrum and orbit include multiple spot beams and bandwidth compression techniques); *Further Notice*, 84 FCC 2d at 507–08, 510 (market-clearing price may provide incentive for investments in research, development, and implementation of more efficient technologies which would not occur at lower price).

[57] *See* Diebold Group, Western Union Telegraph Co.: Competitive Data Communications Study 2, 29 (1980), submitted as appendix to Western Union Comments; NTIA's Petition for Reconsideration at 2 (services of Wiltek and Scientific Timesharing using teleprinter terminals and services of Southern Pacific, ITT, and Graphnet using store-and-forward facsimile are reasonable substitutes for hard copy record services of WU). According to WU's Petition for Reconsideration at 10, AT&T has at least 300,000 low-speed teletypewriter terminals and a large number of data terminals on its network, as compared to 100,000 to 150,000 terminals on the Telex/TWX network.

[58] *See* note 35 *supra*; Graphnet Systems, 71 FCC 2d 471 (1979), *aff'd sub nom.* Western Union Telegraph Co. v. FCC, 665 F.2d 1112 (D.C. Cir. 1981); Interconnection Arrangements Between and Among Domestic and International Record Carriers, *supra* note 35; Record Carrier Competition Act, 47 U.S.C. § 222. In the *Further Notice*, 84 FCC 2d at 503, we observe that good supply substitution possibilities exist for WU's Telex/TWX network. Transmission capacity used to provide MTS/WATS can be used to provide a public switched record service. Equipment can be added to these transmission lines to duplicate WU's features such as Infomaster Computers and Centralized Telephone Bureaus. In the *First Report*, 85 FCC 2d at 25–28, we cited our decisions in Public Message Services, 71 FCC 2d 471 (1979), and International Record Carriers (Gateways), 76 FCC 2d 115 (1980), as likely to diminish WU's market power. In RCA Global Communications, 88 FCC 2d 905 (1981), the Commission granted the IRCs permission to provide their own competitive, wholly-domestic record services.

We do not read the Record Carrier Competition Act or its legislative history as finding that a separate relevant market of record services exists for purposes of assessing the market power of carriers. The Act removed certain restrictions on competition directed at telegraph carriers in 47 U.S.C. 222 (1962). Nor does the Act or legislative history require us to find that any record carrier possess market power.

[59] *See* UST&T Reply Comments to Further Notice 18; UST&T Opposition to WU's Petition for Reconsideration of the First Report 4; RCA Globcom Opposition to WU's Petition for Reconsideration of the First Report 13; Western Union International Comments. The relevant question in defining markets is not whether there are substitutes for a given product that can be used by those who want that particular product with exactly the same specifications and properties. Rather, the question is what are the substitutes which may make it unprofitable for the firm to attempt to raise the product's price to any group of buyers by restricting output. WU is constrained to price competitively even to those buyers who want to communicate with WU's large network of subscribers because of (1) the availability of interconnections for other record carriers and (2) other services that are close substitutes for many messages and customers. *See* Fisher, *Diagnosing Monopoly*, 19 Q. Rev. Econ. & Bus. 7, 15 (1979); In re Data General Antitrust Litigation, 529 F. Supp. 801 (N.D. Cal. 1981); U.S. Department of Justice, *supra* note 18, at para. 4502.

[60] *See* Comments on Further Notice of Department of Justice, RCA Globcom, TRT Telecommunications, Western Union International, and ITT Worldcom

[61] ISA Communications Services, 90 FCC 2d 938 (1982). ISACOMM provides some services in areas where an exchange telephone company owned by United Telecom is the wireline carrier.

Southern Pacific Communications Co.[62] Like the services of other terrestrial and domsat resellers, domsats, and specialized common carriers, these services are in the relevant product market of interexchange telecommunications services because of demand and supply substitutability.

24. To summarize, considerations of demand and supply substitutability show that, for purposes of assessing the power of the carriers covered by this proceeding, there is a single relevant product market of interstate, domestic, interexchange telecommunications services with no relevant submarket.

Relevant Geographic Market

25. The relevant geographic market includes the locations of the suppliers (1) to which buyers in any one area practically can turn for alternative sources of supply, or (2) which otherwise check the prices charged to those buyers. Locations are included in a relevant market because either buyers in one area practicably can go there to purchase from a supplier as an alternative to purchasing from a given firm (demand substitutability), or a supplier there readily could sell to these buyers by employing existing capacity or developing new plant (supply substitutability).[63] In addition, multiple locations are included in a relevant market when the firm selling to buyers in multiple locations cannot engage successfully in price discrimination against buyers in any location and its rivals in other locations check the firm's prices to all its buyers.[64]

26. A national geographic market for interstate, domestic, interexchange telecommunications services is warranted because of supply substitutability and low entry barriers. The nationwide interexchange network essentially operated by AT&T extends to almost all locations served by carriers covered in this proceeding.[65] This network has alternative routing capabilities, by which transmission capacity between points A and B often can be used in providing service between points C and D. The cost of alternative routing may be similar to that of direct routing. The capacity of this network cannot be segmented into distinct city pairs or even domestic regions. Other networks, including those operated by MCI, Southern Pacific, and USTS, also have alternative routing capabilities with nationwide or near-nationwide service areas.

27. A satellite has the capacity to serve vast regions of the continental United States, Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points without adjustment and with little cost and time required to install earth stations.[66] The areas served by different satellites overlap and do not fit in neat geographical delineations. Often, satellite capacity readily could be diverted from serving points A and B to serving points C and D, even when the two sets of points are not geographically proximate.

28. Finally, terrestrial carriers have been able to enter and expand rapidly to serve a pair of points by constructing new facilities to supplement their networks [67] interconnecting, or reselling the services of other carriers.[68] Domsat resellers also have great flexibility in entering into new areas and diverting capacity from one area to another.

29. As for demand substitutability, customers readily shift their purchases from a supplier providing service along a particular route between an origin and destination (say, using specific earth stations and a specific transponder) to a supplier using a different route to serve that origin and destination. The geographic locations comprising a specific route do not constitute a relevant geographic market. Also, many customers consider an interexchange carrier's ability to serve multiple geographic points and its prices for services to all those points when choosing a supplier. In these cases, demand cannot be segmented into distinct city pairs or even regions. For example, a buyer may want a single supplier for Chicago-Houston and Chicago-New York services. In choosing a supplier, he will consider carriers' prices for services to these points. Such patterns of demand across geographic points favor a nationwide geographic market.

30. For all these reasons, we conclude that there is a single national relevant geographic market (including Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points) for interstate, domestic, interchange telecommunications services with no relevant supermarkets. We do not limit the relevant geographic market to the continental United States.

III. Application of Market Power Analysis

31. Available data show that the shares of the carriers covered by this proceeding—MCCs; domsats; domsat resellers; domestic operations of WU, IRCs, and other record carriers; interexchange carriers affiliated with exchange telephone companies; specialized common carriers; and terrestrial resellers—in the relevant market we have delineated are small.[69] These small market shares suggest the absence of market power for the carriers covered by this proceeding. In addition, recent entry and expansion of numerous suppliers in competition with the

---

[62] Application of GTE Corp. and Southern Pacific Co., FCC 83-269 (released July 1, 1983).

[63] Tampa Electric Co. v. Nashville Coal Co., 365 U.S. 320, 331-32 (1961).

[64] U.S. Department of Justice, supra note 18, at para. 4502.

[65] Our analysis does not concern the full geographic scope of the IRCs' services, but rather only the points served by the domestic portion of their services.

[66] "[A]dequate capabilities are being built into each satellite system to warrant the assignment of an orbital location capable of serving all 50 states to each carrier in the 4/6 Ghz bands." Orbit Deployment Plan, *supra* note 46, 84 FCC 2d at 597. These satellites generally also can serve other U.S. offshore points. The capacity of many transponders can be switched from, say, mainland-Hawaii to mainland-mainland traffic. Even though there are points in Alaska currently served by only one carrier, other carriers readily could serve these points and they are not in a separate geographic market. *See* RCA Americom's Opposition to Alascom's Petition for Reconsideration (terrestrial faciliteis could be used to serve points in Alaska and five new carriers have been authorized to operate satellites in orbital slots suitable for providing service to Alaska).

[67] *See* note 33 *supra*.

[68] *See* note 35 *supra*.

[69] In United States v. AT&T, 552 F. Supp. 131, 171 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983), the court noted that AT&T conceded that as late as 1981 its share of interexchange revenues was around 77 percent, with estimates submitted by others higher and some in excess of 90 percent. In 1982, toll service revenues of the Bell System were $33.9 billion; toll service revenues of the Bell System and independents were $42.3 billion; total operating revenues of the specialized common carriers were $1.3 billion (with MCI accounting for $813 million, Southern Pacific for $393 million, and United States Transmission Systems for $128 million); and total operating revenues of the MCCs were $88 million. Letter from Common Carrier Bureau to Rep. Wirth, Charts, 4, 5 (July 8, 1983). Satellite Business Systems' 1982 revenues were $39 million. SBS 1982 Annual Report to Stockholders 22. American Satellite's 1982 revenues were $44 million. Continental Telcom 1982 Annual Report to Stockholders 44. WU's 1982 revenues wer $305 million for teletypwriter networks, $309 million for private wire, satellite and related services, $102 million for Mailgram services, and $87 million for telegram services. Western Union 1982 Annual Report to Stockholders 20. Among domsat resellers, revenues for 1982 were $10 million for Southern Satellite Systems, $23 million for World Communications, $10 million for United Video, and $9 million for Eastern Microwave. FCC Form P's, 9. Among terrestrial resellers, 1982 revenues were $100 million for U.S. Telephone, and $60 million for Combined Network. New York Times (Aug. 21, 1983) F1. While data are available on the interstate toll revenues of exchange telephone companies, the data do not separate their interstate service revenues from their exchange access service revenues. Although we lack precise data on the annual revenue of some domsats, domsat resellers, domestic services of IRCs, the interstate services of exchange telephone companies, specialized common carriers, and terrestrial resellers, we doubt that any of them not listed above exceed $100 million.

carriers covered by this proceeding suggest that these carriers lack market power.[70] We conclude that these carriers are non-dominant currently and are likely to be so in the future, although some of these carriers may have possessed market power in the past. Non-dominant carriers not treated by forbearance, see paras. 35–37, will be subject to streamlined regulation. The relevant geographic market found here allows us to treat carriers found non-dominant or qualifying for forbearance here or previously as such for the entire continental United States, Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points. We amend our rules for initial certification of non-dominant carriers to allow authorization for all domestic points. *See* Appendix revising 47 C.F.R. 63.07. Furthermore, all non-dominant carriers currently authorized to serve any domestic area are hereby authorized to serve all domestic points.

32. Exchange telephone companies have the potential to increase competition in interexchange, interestate telecommunications services. However, it is possible that an exchange telephone company could utilize unequal interconnection arrangements to gain market power in the interstate services of its affiliate. We will scrutinize exchange interconnection arrangements for discrimination through our examination of exchange access tariffs and our complaint process; by this decision, we do not lessen our regulatory scrutiny of possible abuses of an exchange telephone company's local exchange facilities. We mandated nondiscriminatory access charges adjusted to account for quality differences until equal interconnection is available to all interexchange carriers in *MTS/WATS Market Structure Inquiry: Third Report and Order*,[71] and have instituted a rulemaking to address equal interconnection.[72] We will continue to apply full Title II regulatory scrutiny to exchange access tariffs. To ensure that ratepayers are not harmed, we will consider carefully complaints regarding rates for interstate services charged by affiliates of exchange telephone companies utilizing premium interconnections[73] from those companies.

33. Even if we have erred in our analysis of market power, by classifying these carriers as non-dominant we are not removing fully our regulatory checks on their prices. As we pointed out in the *First Report* when we created the rules for non-dominant carriers, customers of these carriers retain regulatory protection for those few cases in which they may need it.[74] Non-dominant carriers, other than those treated by forbearance, must file tariffs and we retain the right to suspend and investigate tariff filings either on our own initiative or in response to petitions from customers or others. We also can investigate complaints against non-dominant carriers, including complaints regarding their duty to serve.[75]

Under Section 208 of the Communications Act of 1934, the Commission can call on a carrier to answer a complaint within a reasonable time. If there appears any reasonable ground for investigating the complaint, the Commission has the duty to investigate and can require the carrier to submit data, including cost justification and the rates and terms for different customers. If a rate is found unlawful, the carrier may be liable for damages under Section 206. The comments of parties in this proceeding have alerted us to potential problem areas regarding attempts by carriers to charge unjust or unreasonable rates. While our analysis leads us to doubt that the carriers covered by this proceeding would charge unlawful rates, we will remain sensitive to these concerns and investigate complaints expeditiously. Also, we would quickly initiate an investigation against rates and practices which appear unjust and unreasonable. However, we do not believe that the limited potential problems warrant imposing a heavy regulatory burden on these carriers with consequent costs and inefficiencies. If necessary, we can re-impose the tariff-filing and facilities-authorization requirements on a class of carriers we find non-dominant in this Order.

34. In addition, we stated in the *Further Notice*, that our requirement that MCCs allow other carriers to interconnect to their networks without paying a charge for retransmission rights creates incentives for inefficiencies and distorts MCCs, pricing.[76] Since MCCs lack market power, they cannot profitably charge unjust or unreasonable rates for interconnecting with their networks, and they cannot profitably impair consumers' welfare by charging for interconnections. Accordingly, we allow MCCs to impose charges on other carriers for retransmission rights. We will treat MCCs by streamlined regulation. Along with market forces, our tariff-review and complaint processes are available to check these charges.

35. We believe that the decision in the *Second Report* to forbear applying particular tariff-filing and facilities-authorization Title II regulation to terrestrial resellers should be extended to cover all resellers, including domsat resellers, resellers owned by or *affiliated* with an exchange telephone company, and domestic record-carrier resellers not covered by the interconnection requirements of the Record Carrier Competition Act. We distinguished resellers from other non-dominant carriers in that resellers do not own their own facilities; the underlying carriers' rates act as a "just and reasonable" ceiling on resellers' rates, and resellers cannot affect the availability to the public of services via underlying facilities.[77] The logic of this approach extends to domsat resellers even though they typically own transmit or transmit/receive earth stations. Such facilities ownership by domsat resellers does not limit the check of domsats' rates on those of domsat resellers. Also, in light of the relatively low cost and short construction time for earth stations, this facilities ownership does not give domsat resellers the ability to make services unavailable. Domsat resellers will not have to file tariffs or Section 214 applications for transmit or transmit/receive earth stations, but will require authorization under Title III for their earth stations. We will treat providers of satellite earth station services by the same regulation as domsat resellers. Carriers owning transponders will be treated as domsats (carriers subject to streamlined regulation) rather than domsat resellers (carriers subject to forbearance). Because of the requirements of the Record Carrier Competition Act and the Commission's interim implementation order,[78] we treat WU and all record

[70] *See* notes 20, 33, 47, 48, 49 *supra*.

[71] 48 FR 10,319 (1983), *reconsid.*, FCC 83-356 (released Aug. 22, 1983).

[72] MTS/WATS Market Structure, Phase III (CC Docket No. 78-72) (released May 31, 1983).

[73] Premium interconnection arrangements for exchange access are discussed in MTS/WATS Markets Structure Inquiry: Third Report and Order (reconsideration), FCC 83-356, at 45-58 (released Aug. 22, 1983).

[74] 85 FCC 2d at 30-40.

[75] *Second Report*, 91 FCC 2d at 65.

[76] 84 FCC 2d at 514.

[77] *Id.* at 69, 71. "[T]he continued imposition of tariff and entry and exit requirements upon carriers without facilities of their own undesirably have the effect of delaying new services and dampening innovation and marketing strategies." *Id.* at 67.

[78] Interconnection Arrangements Between and Among the Domestic and International Record Carriers, *supra* note 35. Pursuant to the RCCA, we required that carriers engaging in both domestic and international record communications "set forth in a clear and concise manner the domestic charge for each interconnected domestic carrier, the international charge, and the total end-to-end charge in their public tariffs." 91 FCC 2d at 488.

Continued

carriers covered by the interconnection requirements of that Act under streamlined regulation.

36. We have had three years of experience with treating specialized common carriers as non-dominant. There is no evidence that it is in the public interest for us to continue receiving streamlined tariff and Section 214 filings from certain specialized common carriers to prevent them from charging unjust or unreasonable rates or making service unavailable.[79] We extend forbearance treatment to all carriers subject to streamlined regulation prior to this Order based on their absence of market power and our experience with regulating them as non-dominant carriers. However, since information on their facilities may be useful in the Inquiry into long-run regulation of AT&T (FCC 83–482) and other proceedings, we maintain the filing requirements under § 63.07 of our rules for all carriers treated by forbearance except resellers. We include GTE SPRINT (formerly Southern Pacific Communications Co.) in the class of specialized common carriers subject to forbearance.[80] Our experience with streamlined regulation of this carrier shows no likelihood of regulatory problems from forbearance, and our order in GTE's acquisition of this carrier (FCC 83–269) found no likelihood of lessening competition.

37. We may extend forbearance treatment to other categories of non-dominant carriers in the future after observing the costs and benefits of streamlined regulation of different categories of carriers. Within 18 months after issuance of this Order, we will review our experience and decide whether to continue applying streamlined regulation to carriers we today classify as non-dominant. Also, the Common Carrier Bureau will have the authority to determine whether a particular carrier that would be treated by streamlined regulation qualifies for forbearance treatment. This determination will be made after a carrier's petition when the costs and benefits of forbearance for that carrier are more attractive than those of streamlined regulation. We are confident that market forces, our complaint process, and our ability to re-impose tariff-filing and facilities-authorization requirements are sufficient to protect the public interest regarding carriers treated by forbearance. A carrier may have a mix of characteristics, with some of the streamlined-regulation types and some of the forbearance types. If the carrier has separate affiliates with these different characteristics, one may be subject to streamlined regulation while the other may be treated by forbearance. If a single entity has these mixed characteristics, it will be treated by streamlined regulation unless a waiver is granted. Also, a carrier may have some characteristics not found to be non-dominant. *See, e.g.*, para. 40 *infra*. If the carrier has a separate affiliate with only streamlined-regulation and/or forbearance types of characteristics, that affiliate would be treated as non-dominant and subject to streamlined regulation or forbearance, as specified *supra*. If a single entity has some characteristics not found to be non-dominant, that entity is not eligible for streamlined regulation or forbearance.

38. We discussed our legal authority to regulate differently dominant and non-dominant carriers in the *First Report*.[81] Briefly stated, we believe that the purposes of the Communications Act are best satisfied by reduced entry, exit, and pricing barriers and burdens for non-dominant carriers. Such barriers and burdens impair competition by delaying or deterring carriers in their service and rate offerings and causing them to bear additional costs. Consequently, users pay higher rates and there is limited availability of services satisfying users' needs. Generally, the Commission has the duty to determine that its rules promote the public interest when applied to particular carriers or applicants, and to refrain from imposing and to remove unnecessary regulatory burdens on carriers.[82] Furthermore, the Commission has broad discretion in choosing how to regulate and can modify its procedures in light of changing market conditions.[83] The Communications Act does not specify the amount or type of information to be obtained from applicants or procedures under Section 214(a).[84] Facility decisions by non-dominant carriers cannot be translated into higher prices and cannot make service unavailable. Efficient application of our Section 214 authority does not require circuit-by-circuit analysis of their facilities; in fact, such analysis would be an unnecessary regulatory burden, impair competition, and be contrary to the public interest. Also, the Commission may use various methods, including some reliance on market forces, to arrive at just and reasonable rates.[85] The combination of our ability to investigate rates of non-dominant carriers in response to complaints or on our own initiative and market forces will ensure that these carriers' rates are just and reasonable.

39. In addition, there is legal support for our treatment of domsats and domsat resellers as non-dominant carriers despite their potential to earn economic rents in times of scarcity through rates reflecting their opportunity costs rather than historical costs. We have previously stated that "[r]ates

---

Streamlined regulation of the domestic operations of record carriers does not affect their obligations under the RCCA or the Commission's implementation order.

[79] We have received only five petitions against tariff filings by specialized common carriers since adoption of the streamlined rules. In each case, allegations of unreasonable rates or other terms of service were found to be without merit. MCI Telecommunications Corp., Mimeo No. 07613 (released March 2, 1981); MCI Telecommunications Corp., Mimeo No. 001952 (released July 6, 1981); United States Transmission Systems, Inc., Mimeo No. 508 (released Nov. 13, 1981); Hart Industries, Inc., Mimeo No. 003323 (released Sept. 11, 1981); Southern Pacific Communications Co., Mimeo No. 4029 (released May 9, 1983). There have been only a couple of oppositions to service discontinuances by specialized common carriers during this period. In each case, allegations of harm from the discontinuance were found to be without merit.

[80] In view of the fact that GTE has maintained GTE SPRINT as a structurally separated affiliate, which conforms to the terms of the consent decree in United States v. GTE Corp., 5 Trade Reg. Rptr. (CCH) para. 50, 833 (D.D.C. 1983), we are prepared to treat GTE SPRINT as subject to forbearance.

[81] 85 FCC 2d at 12–20, 40–44. "So long as our regulation imposes costs on some firms, and thus on the public, not exceeded by the benefits generated thereby, the provision of communications service by those firms can never be as 'efficient' nor can the charges be as 'reasonable' as they might be in the absence of such artificial costs." *Id.* at 13 (referring to the goals stated in 47 U.S.C. 151).

[82] *See, e.g.*, Geller v. FCC, 610 F.2d 913, 980 (D.C. Cir. 1979); Home Box Office v. FCC, 567 F.2d 9, 36 (D.C. Cir.), *cert. denied*, 434 U.S. 829 (1977); WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969). *See also* 47 U.S.C. 222(b)(1) (1983) ("the Commission shall forbear from exercising its authority under this chapter as the development of competition among record carriers reduces the degree of regulation necessary to protect the public").

[83] *See, e.g.*, National Broadcasting Co. v. United States, 319 U.S. 190, 219 (1943); *Computer and Communications Industry Association*, *supra* note 27, 693 F.2d at 212; AT&T v. FCC, 572 F.2d 17, 26 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978); Washington Utilities and Transportation Commission v. FCC, 513 F.2d 1142, 1157 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975) ("Regulatory practices and policies that will serve the 'public interest' today may be quite different from those that were adequate to that purpose in 1910, 1927, or 1934, or that may further the public interest in the future.").

[84] ITT World Communications v. FCC, 595 F.2d 897, 900 (2d Cir. 1979).

[85] *Computer and Communications Industry Association*, *supra* note 27, 693 F.2d at 210–11; Western Union Telegraph Co. v. FCC, 674 F.2d 160, 165–66 (2d Cir. 1982). In meeting the statutory standards of just and reasonable rates, it is the result reached and not the method employed which controls. FPC v. Hope Natural Gas Co., 320 U.S. 591, 602 (1943); FERC v. Pennzoil Products Co., 439 U.S. 508, 516–17 (1979). The Commission's reliance on market forces does not mean lack of regulation. United States v. Western Electric Co., 531 F. Supp. 894, 902 (D.N.J. 1981).

developed on some basis other than the cost of providing service may be found lawful if convincingly justified from the standpoint of the Commission's statutory objectives."[86] In at least two cases, the Supreme Court upheld rates in which a regulatory commission did not adhere rigidly to a cost-based determination of rates, much less to one that based each supplier's rates on his own costs.[87] This Commission's decision that, subject to certain conditions, competitive necessity can justify differential rates without cost justification was upheld on appeal.[88] Also upheld on appeal was the Commission's finding that value of service pricing would be lawful if shown to promote the public interest.[89] In 1982, we declined to suspend or reject AT&T's operator-assistance service charges with high markups over purported costs. AT&T justified these charges as discouraging the use of labor-intensive, expensive operator assistance; in allowing the charges to go into effect, we noted that the surcharge did not appear unreasonable on its face.[90] Courts have upheld non-cost additions to regulated rates for scarce products when such policies would promote regulatory policies.[91] We have found herein that allowing the rates of domsats and domsat resellers to equal market-clearing prices will promote the public interest by increasing the availability of innovative, efficient services that make use of potentially scarce satellite resources and efficiently allocating those resources among potential buyers. We can investigate these carriers' rates which do not appear to promote the public interest and, if necessary, prescribe just and reasonable rates.

40. We believe that this Order promotes the public interest in efficient telecommunications services by removing costly regulatory burdens while maintaining adequate assurance of just and reasonable rates and service availability. We are committed to analyzing the costs and benefits of our present regulation. Comments in the Inquiry into regulation of AT&T adopted today may lead us to act soon on AT&T's pending petitions or other pleadings that it may file in this rulemaking for non-dominant treatment of some of its services. Also, we will consider streamlined regulation or forbearance from regulating other categories of carriers in response to petitions or on our own initiative. Such petitions should address the relevant product and geographic markets, supported by factual evidence of demand and supply substitutability, and market power, supported by factual evidence of the level and change in market shares and entry. Among the classes of carriers not heretofore considered in this rulemaking are providers of domestic public land mobile radio services, public coast maritime mobile radio services, multipoint distribution services, digital electronic message services, and cellular mobile radio services.[92]

IV. Ordering Clauses

41. Accordingly, it is ordered, pursuant to Sections 4 (i) and (j), 201–205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 201–205 and 403, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, that the policies set forth herein are adopted and effective on the date of publication in the **Federal Register.**[93]

42. It is further ordered, pursuant to Sections 4 (i) and (j), 214, 303 and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 514 (i) and (j), 214, 303 and 308, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, that § 63.07 of the Commission's Rules and Regulations, 47 CFR 63.07, is amended as set forth in the Appendix.

43. It is further ordered, that carriers treated by forbearance as defined in this order are given permission to cancel their tariffs on file with this Commission. Cancellation shall be by supplement effective upon five day's notice and the supplement shall reference this order as authority for cancellation. For this purpose, §§ 61.58, 61.59 and 61.116 of the Rules, 47 CFR 61.58, 61.59 and 61.116, are waived.

44. It is further ordered, that petitions for waiver of the twenty-five page limit on petitions for reconsideration and petitions for acceptance of late-filed comments are granted.

45. It is further ordered, that the petitions for reconsideration filed by American Satellite Company, RCA American Communications, Inc., National Telecommunications and Information Administration, Western Union Telegraph Company, Transponder Corporation of Denver, General Telephone and Electronics Corp., Western Tele-Communications, Inc., ISA Communications Services, Gordon and Healy, Southern Satellite Systems, Andrews Tower Rental, East Texas Transmission Company, Hi-Desert Microwave, Pilot Butte Transmission Company, Inc., RCA Global Communications, U.S. Department of Justice, ITT World Communications, Satellite Business Systems, United States Independent Telephone Association, and United Video, Inc., are granted to the extent indicated above and otherwise are denied.

46. It is further ordered, that the Secretary shall cause this Fourth Report and Order to be Published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 63 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

§ 63.07 [Amended]

1. Section 63.07(a)(5) is amended by replacing the words "continental United States" with "all domestic points."

[86] RCA American Communications, 89 FCC 2d 1070, 1077 (1982), *citing* American Television Relay, 63 FCC 2d 911, 924–30 (1979), *aff'd in relevant part sub nom.* Las Cruces TV Cable v. FCC, 645 F.2d 1041 (D.C. Cir. 1981), and Permian Basin Area Rate Cases, 390 U.S. 747, 776–77 (1968).

[87] Placid Oil Co. v. FPC, 483 F.2d 880, 890 (5th Cir. 1973), *aff'd sub nom.* Mobil Oil Corp. v. FPC, 417 U.S. 283, 308 (1974) ("non-cost factors are, or may be, a proper element of rate structure if they are clearly labeled and justified on the basis of 'substantial evidence on the record as a whole' "); Permian Basin Area Rate Cases, *supra* note 86, 390 U.S. at 815 (lawful rates included non-cost price elements for future expansion of exploratory efforts).

[88] Telpak Rates, 38 FCC 370 (1964), *aff'd sub nom.* American Trucking Associations v. FCC, 377 F.2d 121, 131 (D.C. Cir. 1966), *cert. denied*, 386 U.S. 943 (1967).

[89] American Television Relay, *supra* note 86, 63 FCC 2d at 924–30 (Incorporation of population factor in rate structure is value of service pricing and would be lawful if clear and convincing showing of public interest justification would be made).

[90] AT&T: Equalization Filing, 89 FCC 2d 1000, 1099 (1982).

[91] *See* cases cited in note 87 *supra;* Consolidated Rail Corp. v. United States, 567 F.2d 64 (D.C. Cir. 1977) (incentive per diem charges on type of boxcar in shortage to encourage railroads to acquire that type of boxcar). In *Hope Natural Gas*, supra note 85, 320 U.S. at 629, Justice Jackson in a separate opinion recommended that prices for a scarce resource should be used "functionally to produce a supply that will satisfy a socially selected level of demand, and efficiently to allocate that supply." The courts have allowed regulatory commissions great flexibility in developing regulatory schemes for scarce resources. *See Mobil Oil, supra* note 87, 417 U.S. at 331; *Placid Oil, supra* note 87, 483 F.2d at 889; *Permian Basin, supra* note 86, 390 U.S. at 772.

[92] Pursuant to the *First Report*, resellers of these services are treated by forbearance.

[93] The Commission finds that because these policies relieve restrictions on competition and public benefits will be derived from putting them into effect without delay, an immediate effective date is in the public interest. *See* 5 U.S.C. 553(d).

2. Section 63.07(c) is deleted, and paragraphs (d) and (e) are redesignated as (c) and (d), respectively.

[FR Doc. 83-31140 Filed 11-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 87

[PR Docket No. 83-29; FCC 82-493]

Provision of a Transition Period for the Removal of the A3 Class of Emission (Voice) From Aeronautical Radiobeacon Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order will amend the rules to provide a transition period for the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations. This item will also update the rules with respect to emission designators authorized at radiobeacon stations. This action is taken to establish conditions whereby it will be possible to alleviate a frequency congestion problem associated with radiobeacon stations and to update the Commission's rules.

EFFECTIVE DATE: December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau (202) 632-7175.

List of Subjects in 47 CFR Part 87

Aeronautical stations, Communications equipment, General aviation, Radio.

Report and Order (Proceeding Terminated)

In the matter of amendment of part 87 of the rules to provide a transition period for the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations (PR Docket No. 83-29); *Corrected.*

Adopted: October 26, 1983.
Released: November 10, 1983.

By the Commission.

Summary

1. The Commission is amending Part 87 of the rules to provide a transition period for the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations and updating the rules with respect to emission designators authorized at radiobeacon stations.

Background

2. Radiobeacon stations are an integral part of the NDB/ADF aeronautical navigation system which is administered by the Federal Aviation Administration (FAA). The system consists of airborne automatic direction finders (ADF) and ground stations called nondirectional beacons (NDB). Authorization for operation of NDB's by non-FAA stations may be granted by the Commission after Government is not yet prepared to provide. When the Commission licenses an NDB, it is referred to as a radiobeacon station. Of approximately 2000 NDB's operating within the NDB/ADF aeronautical navigation system, approximately 1200 of them are licensed by the Commission as radiobeacon stations. The Commission licenses radiobeacon stations in accordance with recommendations received from the FAA, because the FAA has the statutory authority [1] to administer and prescribe standards for the operation of the NDB/ADF system. Frequency congestion associated with radiobeacon stations has been a longstanding problem. In a large portion of the continental United States, the FAA is finding it difficult or impossible to satisfy all NDB requirements.

3. On January 31, 1983, we released a notice of proposed rulemaking [2] to amend our rules to provide a transition period for the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations. This notice was based upon a recommendation made by the Radio Technical Commission for Aeronautics (RTCA) and was issued with a view toward relieving the frequency congestion problem associated with aeronautical radiobeacon stations. In a matter related to the operation of radiobeacon stations, this notice also proposed to amend the rules to provide for the use of the A9 class of emission and the 1.12A9 emission designator (dual-carrier) at radiobeacon stations. This amendment will make existing frequency assignments, based upon frequency coordination effected by the Interdepartment Radio Advisory Committee (IRAC), consistent with the rules.

Comments

4. Comments in this proceeding were filed by:

—Aircraft Owners and Pilots Association (AOPA).
—Federal Aviation Administration (FAA).

There were no reply comments filed in this proceeding.

[1] See, Federal Aviation Act of 1958; Pub. L. 85-726

[2] NPRM, PR Docket No. 83-29, FCC 83-24, 48 FR 4849

Commenters Views

5. Both commenters opposed the removal of the A3 class of emission (voice) because they considered it necessary to disseminate the FAA transcribed weather broadcasts (TWEB) on the nondirectional beacon (NDB) system comprised of radiobeacon stations.

6. The FAA recognized the frequency congestion problem associated with radiobeacon stations but also recognized a need for the dissemination of more weather information. The FAA stated that it would not decommission the TWEB system on NDB's (radiobeacon stations) until a suitable replacement system for disseminating weather information becomes available. However, the FAA also stated that no replacement system is presently available. In an effort to avoid expansion of voice services, the FAA indicated that the use of voice in new radiobeacon stations would be considered as a last resort and on a case by case basis only. Accordingly, the FAA recommended that the A3 class of emission (voice) be grandfathered on existing stations and not be authorized on new radiobeacon station licenses unless specifically requested by the FAA.

7. The AOPA recommended that existing non-government NDB's be authorized to continue using the A3 class of emission until such time as the FAA has provided a replacement weather dissemination service.

Discussion and Conclusion

8. Neither of the commenters addressed the proposal to amend the rules to include the A9 class of emission and emission designator 1.12A9 for use at radiobeacon stations. The proposal will be adopted.

9. The commenters acknowledge the frequency congestion problem. These radiobeacon stations provide a popular and affordable navigation aid for use at relatively small landing areas and there has been rapid growth in their number during the last decade. The problem could be lessened, and more radiobeacons made available to more places, were it not for the fact that geographical protection areas are required for those radiobeacon stations which have a voice (A3 emission) capability. Less than 100 of the 1200 radiobeacon stations licensed by the Commission have the capability. Nevertheless, the fact remains that the bandwidth necessitated by maintaining the voice capability presently precludes

a more spectrum-efficient distribution of radiobeacon stations.

10. Although the voice capability of those radiobeacons so operating is employed for a useful weather advisory service, we consider that the primary purpose of the NDB/ADF system is navigation. We are also aware of present, alternative sources of pre-flight and enroute weather information such as the extensive network of 241 Flight Service Stations and of proposals for future systems. We conclude, therefore, that the public would best be served by initiating the steps necessary to remove the voice capability from radiobeacons licensed by the Commission. This will enable the eventual reassignment of radiobeacon frequencies in a more spectrum-efficient manner.

11. As recommended by the commenters, we will grandfather until January 1, 1990, existing radiobeacon stations which presently are licensed for voice emission. After that date, the A3 emission will no longer be authorized at such radiobeacon stations licensed by the Commission unless continued use of the A3 emission is specifically recommended by the FAA based upon an FAA case by case determination that the emission is required for safety purposes. Beginning on the effective date of this order, The Commission will not authorize the A3 emission at new radiobeacon stations or at existing radiobeacon stations for which a modification is requested unless the A3 emission is specifically recommended by the FAA after having made a determination that the emission is required for safety purposes.

12. The Commission, by action taken on January 13, 1982, adopted PR Docket No. 80-758 which amended Part 87 of the rules so as to incorporate technical specifications and the new frequency allotment plan contained in the Final Acts of the World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978. As a result of this action, the A3 class of emission (voice) was inadvertently deleted from frequency assignments in the Aviation Service below 50 megahertz. It was not the Commission's intent to abruptly eliminate voice transmissions at radiobeacon stations which operate on frequencies in the Aeronautical Radionavigation Service. Therefore, to correct this oversight and provide for the use of the A3 class of emission at radiobeacon stations in our rules, we are amending § 87.67(b) of the rules by adding an appropriate footnote to the table contained therein.

13. The rule amendments in this proceeding will not have a significant economic impact upon the aviation community. There are no charges levied for flight weather information disseminated from radiobeacon stations and no new equipment need be purchased as a result of the rule amendments. Since less than 100 radiobeacon stations and associated aircraft operators are involved and since a transition period of over six years is provided, we consider that any adverse impact will be minimal and far outweighed by the ultimate beneficial impact to the entire aviation community. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

14. Regarding questions on matters covered in this document contact Robert E. Mickley (202) 632-7175.

15. Accordingly, it is ordered, that under the authority 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), the Commission rules are amended as set forth in the attached appendix, effective December 19, 1983.

16. It is further ordered, that a copy of this Report and Order be sent to the Chief Counsel for Advocacy of the Small Business Administration.

17. It is Further ordered, that this proceeding is TERMINATED.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

§ 87.67 [Amended]

In § 87.67, paragraph (b) is amended by:

a. adding footnote designator (12) to the table opposite Class of Emission "A3" and under the column headed "Class of Emission",

b. adding the footnote (12), appropriately, below the table to read as follows:

(12) For use with an authorized bandwidth of 8.0 kilohertz at radiobeacon stations. The A3 emission will not be authorized:

(i) at existing radiobeacon stations which are not authorized to use the A3 emission and at few radiobeacon stations for which applications are received subsequent to December 19, 1983, unless specifically recommended by the FAA based upon an FAA case by case determination that the emission is required for safety purposes.

(ii) at existing radiobeacons stations, currently authorized to use the A3 emission, subsequent to January 1, 1990, unless specifically recommended by the FAA based upon an FAA case by case determination that the emission is required for safety purposess.

(c) adding new line to the five column table between "Class of Emission A9" and "Class of Emission—A9]" with columnar entries as follows:

1st column	2nd column	3rd column	4th column	5th column
A9	1.12A9(13)	2.74		'd and.

d. adding the footnote (13), appropriately, below the table to read as follows:

(13) Authorized for use at radiobeacon stations.

[FR Doc. 83-31075 Filed 11-17-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1118, 1162 and 1163

[Ex Parte No. MC-67 (Sub-No. 8)]

Rules Governing Temporary Authority and Emergency Temporary Authority; Special Tariff Authority No. 78-1000-TA, Establish Rates on One Day's Notice To Cover Temporary Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: In a notice published at 48 FR 51627, November 10, 1983, and at page 8 of the ICC Register, on November 10, 1983, the Commission adopted revised temporary authority (TA) and emergency temporary authority (ETA) procedures, including a revision of the outstanding special permission procedure for filing rates on less than statutory notice. Those rules contained an inadvertent error, the correction of which appears in the **SUPPLEMENTARY INFORMATION** of this notice.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT: William F. Sibbald, Jr., 202-275-7148.

SUPPLEMENTARY INFORMATION: At 48 FR 51628, the Commission By-Line should read as follows:

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

dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31087 Filed 11-17-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 581]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 25—December 1, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 25, 1983.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983-84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on November 15, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is uncertain.

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

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

1. Section 907.881 is added as follows:

§ 907.881 Navel Orange Regulation 581.

The quantities of navel oranges grown in California and Arizona which may be handled during the period November 25 through December 1, 1983, are established as follows:

(1) District 1: 1,012,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: 88,000 cartons;
(4) District 4: Unlimited cartons.

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

Dated: November 17, 1983.

Russell L. Hawes,

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

[FR Doc. 83-31127 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 48, No. 224
Friday, November 18, 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

Federal Crop Insurance Corporation

7 CFR Part 434

[Amdt. No. 2]

Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rules.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434), effective for the 1984 and succeeding crop years: by (1) Changing the policy to make it easier to read; (2) adding volcanic eruption as an insurable cause of loss; (3) adding a provision regarding the insurability of irrigated acreage where no irrigated practice is established by the actuarial table; (4) adding a provision to permit determination of indemnities based on the acreage report rather than a loss adjustment time; (5) providing for a coverage level if the insured does not select one; (6) adding a provision prescribing procedures in the event of a probable loss; (7) adding a 60-day claim for indemnity provision; (8) adding a hail/fire provision for appraisals of uninsured causes; (9) adding a section regarding appraisals immediately following the end of the insurance period for unharvested acreage; (10) changing the cancellation/termination dates to conform to farming practices; (11) providing that any change in the policy will be available in the service office by a certain date; (12) adding a definition for "service office;" (13) providing for unit determination when the acreage report is filed; and (14) adding a section concerning "descriptive headings."

In addition, FCIC proposed to issue a new subsection in the tobacco (Dollar Plan) crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring tobacco (Dollar Plan) in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than January 17, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for the regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 434

Crop insurance, Tobacco (Dollar Plan).

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Tobacco (Dollar Plan) Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 434—[AMENDED]

1. The Authority citation for 7 CFR Part 434 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, 77 as amended (1506, 1516).

2. 7 CFR Part 434 is amended in the Table of Contents thereof by removing the word "Reserved" from § 434.3 and inserting, in its place, the words "OMB control numbers."

3. 7 CFR 434.3 is amended by adding a new section heading and to read as follows:

§ 434.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 434) have been approved by the Office of Management and Budget (OBM) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 434.7 [Amended]

4. 7 CFR 434.7(d) is amended by revising the Dollar Plan of the Tobacco Crop Insurance Policy to read as follows:

Department of Agriculture—Federal Crop Insurance Corporation

Dollar Plan of Tobacco Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us"and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss. a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good tobacco farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured. a. The crop insured shall be tobacco of the type shown as insurable by the actuarial table and which is grown on insured acreage and for which an amount of insurance and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be an insurable type of tobacco planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured tobacco at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed it is practical to replant to tobacco and such acreage was not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(6) Planted to tobacco of a discount variety under provisions of the tobacco price support program;

(7) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table; or

(8) Planted for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good tobacco irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good tobacco irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is reported and designated as irrigated at the time the acreage is reported.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of Acreage, Share, and Where Applicable, Practice.* You shall report on our form:

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any tobacco planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Amounts of Insurance and Coverage Levels.* a. The amounts of insurance and coverage levels are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level on or before the closing date for submitting applications for the crop year as established by the actuarial table.

d. In addition to the provisions contained in section 16, if for any crop year the support price per pound is reduced 10 percent or more below the support price per pound for the previous crop year, the dollar amounts of insurance per acre for the current crop year shall be adjusted by multiplying the support price per pound (rounded to the nearest cent, less warehouse charges for the current crop year by the amount in pounds per acre shown by the actuarial table for this purpose. If a tobacco price support program is not in effect for the kind of tobacco which includes the insured type for any crop year, the amounts in pounds per acre shown in the actuarial table will be multiplied by the market price for that crop year to determine the amounts of insurance per acre for such crop year.

5. *Annual Premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage shown in the following table.

PREMIUM ADJUSTMENT TABLE [1]

(Percent adjustments for favorable continuous insurance experience)

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss ratio [2] through previous crop year	Percentage adjustment factor for current crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part therof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person has previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.* Any upaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.* Insurance attaches when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. The date shown below, immediately following the normal harvest period:

(1) Type 11, December 31;
(2) Type 12, November 30;
(3) Type 13, October 31;
(4) Type 14, September 30;
(5) Type 35 and 36, February 28;
(6) All other types, March 31.

8. *Notice of Damage or Loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs. Insured acreage may not be put to another use until we have appraised the tobacco and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the begining of harvest if you anticipate a loss on any unit.

(3) If probalbe loss is later determined, immediate notice shall be given. Where harvest of the unit is to be completed within 7 days of the date notice of probable loss is given, a representative sample of the tobacco (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) Notice shall be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(5) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice shall be given to allow us sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(6) For any unit of tobacco of types 11, 12, 13, or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed before such notice would otherwise be required under the contract, notice of loss shall be given to us upon completion of harvest. The tobacco stalks shall not be destroyed until consent is given by us.

(7) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the tobacco which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tobacco on the unit;

(2) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of tobacco on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance;

(2) Subtracting therefrom the value of the total production of tobacco to be counted (see section 9e); and

(3) Multiplying the remainder by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The value of the total production to be counted for a unit shall include the value of all harvested and appraised production:

(1) Production to count shall include:

(a) The gross returns (less actual warehouse charges) from tobacco sold on the warehouse floor;

(b) The fair market value of the tobacco sold other than on the warehouse floor;

(c) The fair market value of the tobacco harvested and not sold;

(d) The fair market value, as determined by us, of any unharvested tobacco as if such tobacco were harvested and cured; and

(e) The current year's support price per pound (less warehouse charges) for appraisals made by us for poor farming practices or uninsured causes of loss. *However,* If a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year.

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of and, if the best offer you receive for any such tobacco is considered by us to be inadequate, to obtain additional offers on your behalf.

(3) The stalks on any insured acreage of tobacco types 11, 12, 13, or 14 shall not be destroyed until we give consent. For any such acreage on which the stalks have been destroyed prior to such consent, we may make an appraisal on such acreage of not less than the amount of insurance per acre.

(4) The value of appraised production to be counted shall include:

(a) The value of unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tobacco farming practices;

(b) Not less than the amount of insurance for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than 35 percent of the amount of insurance for all other unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of tobacco becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested tobacco on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the tobacco is damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units will be allocated to such units in proportion to the liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disaprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Florida	Mar. 15.
Alabama, Georgia, North Carolina and South Carolina	Mar. 31.
All other states	Apr. 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* If such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.* For the purposes of tobacco crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, coverage levels, premium rates, practices where applicable, insurable and uninsurable acreage, and related information regarding tobacco insurance in the country.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the tobacco is normally grown and shall be designated by the calendar year in which the tobacco is normally harvested.

e. "Harvest" means cutting or priming at least 20 percent of the amount of tobacco in pounds per acre shown in the actuarial table for such purpose.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Market Price" for a crop year in the case of tobacco:

(1) Types 11, 12, 13, 14, 21, 22, 23, 35, 36 and 37 means the average auction price for the applicable type (less warehouse charges) in the belt or area; and

(2) Types 54 and 55 means the average price for the applicable type in the belt or area. The market price, when determined shall be filed in your service office with the actuarial table.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Planting" means transplanting the tobacco plant from the bed to the field.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program. For any crop year in which a price support for the insured type is not in effect, the market price for that crop year shall be used in lieu thereof.

m. "Tenant" means a person who rents land from another person for a share of the tobacco or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single farm acreage allotment and/or a single poundage marketing quota for the insurable type of tobacco is established on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

If a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the above words "planted on a farm or farms for which a single farm acreage allotment and/or a single poundage quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the tiem of our receipt of the written notice.

Approved by the Board of Directors on May 24, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

Dated: November 8, 1983.

[FR Doc. 83-31823 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 438

[Amdt. No. 2]

Canning and Processing Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Canning and Processing Tomato Crop Insurance Regulations (7 CFR Part 438), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) adding a provision to permit determination of indemnities based on the acreage report in lieu of insured acreage, practices, etc., determinations made at loss adjustment time; (3) providing for a coverage level if the insured does not select one; (4) adding a 60-day claim for indemnity provisions; (5) providing for appraisals following the end of the insurance period for unharvested acreage; (6) adding a hail/fire provision for appraisals of uninsured causes; (7) providing that all uninsured appraisals count; (8) changing the cancellation/termination dates to conform to farming practices; (9) providing that any changes in the policy will be available in the service office by a certain date; (10) adding a definition for "service office"; (11) providing for unit determination when the acreage report is filled; and (12) adding a section concerning "descriptive headings".

In addition, FCIC proposes to issue a new subsection in the canning and processing tomato crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring canning and processing tomatoes in accordance with Secretary's Memorandum No. 1512-1 requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than January 17, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small business, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 438

Crop insurance, Canning and processing tomato.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Canning and Processing Tomato Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 438—[AMENDED]

1. The Authority citation for 7 CFR Part 438 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 Part CFR 438 is amended in the Table of Contents thereof by removing the word "Reserved" from Section 438.3 and inserting, in its place, the words "OMB control numbers."

3. 7 CFR 438.3 is amended by adding a new section heading and text to read as follows:

§ 438.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 438) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 438.7 [Amended]

4. 7 CFR 438.7(d) is amended by revising the Canning and Processing Tomato Crop Insurance Policy as follows:

Department of Agriculture—Federal Crop Insurance Corporation

Canning and Processing Tomato Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of Loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good tomato farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project;

(4) Failure to market the tomatoes when such failure is not due to an insurable cause; or

(5) Any cause not specified in section 1a as an insured loss.

2. *Crop, Acreage, and Share Insured.* a. The corp insured shall be tomatoes which are planted for harvest as canning or procesing tomatoes, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be tomatoes planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured tomatoes at the time of planting.

d. We do not insure any acreage:

(1) Which is not grown under a contract with a canner or processor or excluded from the canner or processor contract for, or during, the crop year (the contract must be extended and effective before you report your acreage);

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and it is practical to replant to tomatoes but such acreage was not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(6) Of volunteer tomatoes;

(7) Planted to a type or variety of tomatoes not established as adapted to the area or excluded by the actuarial table; or

(8) Planted for the development or production of hybrid seed or experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good tomato irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good tomato irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of Acreage, Share, and Practice.* You shall report on our form:

a. All the acreage of tomatoes in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. In California, you shall also report your preceding year's insurable acreage and the tonnage produced therefrom;

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any tomatoes planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. The production guarantees are progressive by periods as designated by the actuarial table.

c. Any acreage of tomatoes damaged to the extent that growers in the area generally would not further care for the tomatoes shall be deemed to have been destroyed even though the tomatoes continue to be cared for. The production guarantee for such acreage shall be the guarantee designated by the actuarial table for the period in which such destruction occurs. The final guarantee shall apply only to harvested acreage.

d. Coverage level 2 will apply if you do not elect a coverage level.

e You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual Premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium

adjustment percentage contained in the following table.

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(c) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.* Insurance attaches when the tomatoes are planted and ends at the earliest of:

a. Total destruction of the tomatoes;

b. Harvest or removal from the field;

c. Final adjustment of a loss; or

b. October 20 (California) or October 10 (all other states) or the calendar year in which tomatoes are normally harvested.

8. *Notice of Damage or Loss.* a. In case of damage or probable loss:

(1) You must give us written notice of:

(a) During the period before harvest, the tomatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs. Insured acreage may not be put to another use until we have appraised the tomatoes and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested tomatoes (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) If an indemnity is to be claimed on any unit, notice shall be given immediately when and if the following circumstances occur:

(i) When harvest would normally start if any acreage on the unit is not to be harvested;

(ii) After discontinuance of harvest on the unit;

(iii) If you are unable to deliver production to the canner or processor; or

(iv) When harvest is completed on the unit.

(5) In addition to the notices required by unless notice has been given under subsection (4) if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the tomatoes on the unit; or

(b) The calendar date for the end of the insurance period.

b. The tomato vines on any hand harvested acreage shall not be destroyed until inspected by us if an indemnity is to be claimed on the unit.

c. You must obtain written consent from us before you destroy any tomatoes which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tomatoes on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of tomatoes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of tomatoes to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

(e) The total production to be counted for a unit shall include all harvested and appraised production including:

(1) All tomato production marketed;

(2) Any tomato production which does not meet the quality requirements of the canner or processor contract due to not being timely marketed;

(3) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tomato farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage;

(4) For acreage which does not qualify for the final period guarantee, any amount of appraised and harvested production in excess of the difference between the final period guarantee and the guarantee applicable to such acreage shall be counted, except that all appraised production lost due to uninsured causes shall be counted.

(5) Our appraisal on insured acreage which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of tomatoes becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested tomatoes on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the tomatoes are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units will be allocated to such units in proportion to the liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent or, if you are an entity other than an individual and such entity is dissolved after the tomatoes are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tomatoes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State, Cancellation, and Termination Dates

California (February 15)
All other states (April 15)

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* If such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. the contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the acturial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.* For the purposes of canning and processing tomato crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices insurable and uninsurable acreage, and related information regarding tomato insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the tomatoes are normally grown and shall be designated by the calendar year in which the tomatoes are normally harvested.

d. "Harvest" or "harvested" as to any insured acreage not deemed to have been destroyed earlier, means severance of tomatoes from the vines and delivery of such tomatoes under your contract with a canner or processor.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the acturial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the tomatoes or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of tomatoes in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tomatoes on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reportying such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.* The descriptive headings of the varous policy terms and condition are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in witing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on May 24, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

Dated: November 8, 1983.

[FR Doc. 83-30815 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-08-M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements; Extension of Comment Period

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Proposed rule, extension of comment period.

SUMMARY: On September 20, 1983, a notice of proposed rulemaking on review of existing regulations was published in the **Federal Register** (48 FR 42823) advising that the Packers and Stockyards Administration was considering amendment and removing certain regulations and a policy statement.

That notice provided that comments regarding the proposal should be filed with the Administration on or before November 21, 1983.

Pursuant to a request from interested parties for additional time to prepare their comments, the time for filing comments concerning the proposed revisions and removals of regulations and policy statement is hereby extended to and including December 2, 1983.

DATES: The time for filing comments is hereby extended to and including December 2, 1983.

ADDRESS: Comments may be mailed to the Administrator, Packers and Stockyards Administration, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C 20250. Comments received may be inspected during normal business hours in the Office of the Administrator.

FOR FURTHER INFORMATION CONTACT: Harold Davis, Director, Livestock Marketing Division, (202) 447–6951 or Kenneth Stricklin, Director, Packer and Poultry Division, (202) 447–7363.

Done at Washington, D.C., this 16th day of November 1983.

James L. Smith,

Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 83-31248 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-KD-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Loans to Members

AGENCY: National Credit Union Administration

ACTION: Proposed rulemaking.

SUMMARY: In accordance with its established policy of reviewing its regulations at regular intervals, the National Credit Union Administration (NCUA) has reviewed its regulations concerning Federal credit union loans and lines of credit to members. As a result of this review, NCUA proposes to substantially revise the regulations. The proposal is intended to clarify and simplify the regulations, ease the regulatory burden on Federal credit unions, and improve the usefulness of the regulations as a reference document by Federal credit unions in implementing their statutory lending authority.

DATE: Comments must be received on or before March 16, 1984.

ADDRESS: Send comments to Rosemary Brady, Secretary, NCUA Board, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, or Bryan Rachlin, Attorney, Department of Legal Services at the above address. Telephone: (202–357–1030).

SUPPLEMENTARY INFORMATION:

Background

NCUA's current regulations concerning Federal credit union lending activities are set forth in ten separate parts beginning at 12 CFR 701.21–1. These regulations have increased in size and number over the last several years as a result of important statutory amendments revising the existing lending authority of, and granting new lending authority to, Federal credit unions. There have been three major statutory changes. First, in 1978, Pub. L. 95–22 eased certain restrictions on existing lending authority and also granted Federal credit unions the power to extend lines of credit to members and to grant long-term mortgage loans to members. In 1980, Pub. L. 96–221 amended the Federal usury ceiling applicable to Federal credit union loans to members. In October of 1982, Pub. L. 97–320 was enacted, effecting various technical amendments to Federal credit union lending authority, clarifying the authority of Federal credit unions to use and enforce due-on-sale clauses in mortgage loans, and establishing for state-chartered credit unions the option of making alternative mortgage loans pursuant to NCUA's regulations.

As a result of regulatory amendments implementing these and other statutory changes, NCUA's regulations now contain separate sections addressing, respectively, the subjects of lending policies, loan interest rates, loan amortization, lines of credit, loans to officials, fixed rate mortgage loans, business relationships with other mortgage lenders, adjustable rate mortgage loans, loan participations and, finally, purchase, sale, and pledge of loans. Based upon its review of these regulations, the NCUA Board has reached the preliminary conclusion that substantial revisions are in order. In some cases, most notably in connection with mortgage loans, the current regulations are lengthy and may contain unnecessary detail. In other cases, the various parts of the current regulations may overlap or may fail as a whole to address a particular type of loan (e.g., second mortgage loans), thus leaving it unclear as to exactly what rules apply.

The purposes of this proposal are to eliminate unnecessary detail and regulatory burden, to reorganize and clarify those regulatory provisions that continue to be necessary or advisable, and to improve the usefulness of the rules to Federal credit unions in implementing their statutory lending authority. To this end, the first section of the proposal is a statement of the purpose and scope of the rules. The second proposed section sets forth provisions that have general applicability to loans to members and lines of credit to members. The proposed sections that follow address specific types of loans and contain any relevant exceptions to the general rules and any additional requirements with respect to the particular type of loan. These sections address, respectively, loans and lines of credit to officials, government-backed loans, second mortgage and mobile home loans, and long-term first mortgage loans. All of the proposed sections are discussed in greater detail in the Summary section below.

It should be noted that one part of the current regulations is proposed to be deleted in its entirety and that two parts are unaffected by this proposal. Current § 701.21–6A is proposed to be deleted. This section establishes rules for Federal credit unions that wish to enter into an arrangement with a third party mortgage lender whereby the credit union serves as an intermediary in making mortgage loans available to its members. The proposed deletion is based on the premise that this activity can be engaged in pursuant to, and is adequately regulated by, NCUA's more general regulation governing other Federal credit union group purchasing activities (12 CFR Part 721). The NCUA Board, of course, welcomes comment on this issue. The last two parts of NCUA's current lending regulations, § 701.21–7—Loan Participation and § 701.21–8—Purchase, Sale, and Pledge of Eligible Obligations, are unaffected by this proposal, with the exception of certain proposed conforming amendments and appropriate renumbering of the sections. In the interest of expediting the review of the more important regulations, substantive review of these sections has been reserved for a later date.

It should also be noted that a number of provisions of the proposed rules restate statutory limitations. While it is generally not NCUA's practice to reiterate all statutory limitations in its regulations, it is believed to be advisable in this case because of the somewhat confusing manner in which the statute now reads as a result of various changes over the years.

The following is a further explanation of the proposed revised rules.

Summary of Proposal and Explanation of Major Changes

Proposed § 701.21(a), Statement of Scope and Purpose

This proposed new section is largely self-explanatory. It indicates that the purpose of the regulations is to implement the provisions of the Federal Credit Union Act authorizing Federal credit unions to make loans to members and issue lines of credit to members. It clarifies that while the provisions of section 701.21 are generally intended for application to Federal credit unions only, those portions of the regulations relevant to alternative mortgage transactions may be utilized by state-chartered credit unions pursuant to Title VIII of the Garn-St. Germain Act (Pub. L. 97-320). The statement of scope and purpose also indicates that the regulations do not apply to loans by Federal credit unions to other credit unions and to credit union organizations, activities which are governed by other statutory and regulatory provisions.

Proposed § 701.21(b), General Rules

This proposed "general rules" section in effect replaces three parts of the current regulations: Section 701.21-1—Lending Policies, § 701.21-1(A)—Interest Rates on Loans to Members, and § 701.21-2—Amortization and Payment of Loans to Members. The proposed new section is designed to accomplish several purposes. First, it would clarify the intention of NCUA in regulating the subject of Federal credit union lending to members to preempt certain provisions of state law. The preemption language as drafted is broad and would purport to preempt all state laws that would otherwise affect the terms and conditions of Federal credit union lending activity (preemption of state disclosure requirements that do not regulate the terms and conditions of a loan or line of credit would continue to be determined pursuant to the Federal Truth in Lending Act). The NCUA Board specifically requests comment on exactly the extent to which preemption is appropriate. (*See* proposed § 701.21(b)(2).)

Second, the general rules section restates those provisions of the current regulations that require each Federal credit union to establish and maintain written lending policies and credit applications (*see proposed* § 701.21(b)(3) and (4)). Third, the limitations of the Federal Credit Union Act (Act) that have general applicability to loans to members and lines of credit to members are restated in one convenient place. Included are the loan maturity limit, the limit on aggregate lending to any one member, and the rule against prepayment penalties. (*See* proposed § 701.21(b)(5), (6), and (7), respectively.)

Fourth, the proposed general rules section contains the provisions currently found at § 701.21-1A implementing the NCUA Board's authority to temporarily establish a loan interest rate ceiling in excess of 15 percent per year if certain economic conditions are met. Pursuant to this authority, the NCUA Board has previously acted to establish the ceiling at 21 percent per year, such ceiling being effective until November 12, 1984, or as otherewise orderd by the NCUA Board. (*See* 48 FR 22901 (1983).) These provisions are substantively unchanged except for the addition of language clarifying the authority of Federal credit unions to offer variable rate loans. (The provisions are set forth at § 701.21(b)(8) of the proposal.)

Finally, the proposed general rules section would carry over and apply to all loans a provision, currently found at § 701.21-6(c)(3) and applying only to long term mortgage loans, that prohibits credit union directors, officials, committee members and employees, and immediate family members of such individuals, from receiving fees in connection with procuring or insuring a loan. (*See*, proposed § 701.21(b)(9).) This provision is intended to ensure that lending decisions are made in the best interests of the credit union and its members, and not in the personal interests of individual officials or employees. The proposal to expand the applicability of this prohibition is not based on specific instances of abuse. In fact, the NCUA Board is confident such practices generally do not occur in Federal credit unions. In order to ensure NCUA's ability to address any isolated abuses, however, the Board believes a regulatory prohibition may be advisable. The Board welcomes comment on whether such a prohibition is advisable and whether the scope of the prohibition as drafted is appropriate.

Proposed § 701.21(c), Loans and Lines of Credit to Officials

This proposed new section is largely a carryover of § 701.21-4 of the current regulations. Some non-substantive changes have been made to improve clarity. The section establishes procedures for implementing sections 107(5)(A) (iv) and (v) of the Act, which require Board of Directors approval whenever a loan or aggregate of loans on which a director or committee member is a borrower or cosigner would exceed $10,000 plus pledged shares. The section also carries over the existing prohibition against preferential treatment of directors and committee members.

Proposed § 701.21(d), Insured, Guaranteed and Advance Commitment Loans

This proposed section would implement section 107(5)(A)(iii) of the Act by clarifying that, notwithstanding other provisions of the Act and NCUA's regulations, a Federal credit union may participate in various government subsidized loan programs by making loans to its members with maturities and other terms and conditions, including rate of interest, specified in the relevant program. Included are loans secured by the insurance or guarantee of the Federal government, a state government, or any agency of either, and loans that are made by Federal credit unions with an advance commitment to purchase by the Federal government, a state government, or any agency of either.

Proposed § 701.21(e), Fifteen Year Loans

This proposed new section would simply incorporate into the regulations, for purposes of clarity, the statutory authority of Federal credit unions to make mobile home loans and second mortgage loans with maturities up to 15 years, notwithstanding the general 12 year maturity limit. (*See* section 107(5)(A)(ii) of the Act.) In the case of a mobile home loan made pursuant to this authority, the mobile home must be used as the residence of the member/borrower and the loan must be secured by a first lien on the mobile home. In the case of a second mortgage loan, the property securing the loan must be the residence of the member/borrower. The proposal would clarify that first mortgage loans may be made pursuant to this authority in the case of a residence on which there is no existing first mortgage. Thus, under circumstances where a member has no mortgage on the house he or she currently resides in, a first mortgage loan may be made with a maturity up to 15 years without regard to the additional statutory and regulatory provisions affecting longer term first mortgages as explained below.

Finally with respect to second mortgage loans, the Board notes the recent development of various plans under which a variable rate line of credit (or "open end" account) is secured by the borrower's residence. The question has arisen whether the 15 year maturity limit has application to a second mortgage securing such a line of credit (or the 12 year maturity limit in the case of a subordinate mortgage), and

if so, how. Inasmuch as Section 107(5) of the Act (12 U.S.C. 1757(5)) on its face does not apply a maturity limit to advances under a line of credit, the Board is not inclined to do so by regulation. (Of course, a loan may not be established as a "line of credit advance" merely to circumvent the maturity limit.) Accordingly, the proposed § 701.21(e) on fifteen year loans does not address lines of credit. The Board welcomes comment on whether this is the proper resolution of the issue. Also the Board notes that, as a practical matter, if a Federal credit union chooses to assess "points" or other front end charges in connection with a home equity line of credit, it will apparently be necessary to establish a maturity in order to be able to determine that the front end charges do not have the effect, over the life of the line of credit, of causing the credit union to exceed the usury limit.

Proposed § 701.21(f), Long-Term Mortgage Loans

This section would combine and carry over, but substantially deregulate, existing § 701.21–6 concerning long-term fixed rate mortgage loans and § 701.21–6B concerning long-term adjustable rate mortgage loans. This proposed section would implement the statutory authority of Federal credit unions to make both fixed and variable rate *long-term* residential real estate loans (i.e., with maturities in excess of the 12 and 15 year limits previously discussed) upon certain conditions. The conditions of the statute are; first, that the loan be made on a one to four family dwelling (a conventional home, condominium unit or cooperative unit); second, that the dwelling is or will be the principal residence of the member/borrower; third, that the loan have a maturity not exceeding thirty years or such other limit as may be set by the National Credit Union Administration Board. These requirements are reflected in sections 701.21(f) (1) and (2) of the proposal.

It should be noted that proposed § 701.21(f)(1) of the regulation would allow maturities of up to *40 years* without advance approval of the NCUA Board. This statutorily authorized extension of the general 30 year maturity limit is carried over from the current rule. It should also be noted that, with respect to the statutory requirement that the dwelling "is or will be" the principal residence of the member, § 701.21(f)(2) of the proposal would not require that the member occupy the dwelling within a certain time after the loan is made. The current rule, at § 701.21–6(a)(2), requires that the member reside permanently in the home within 6 months (or 18 months in the case of a newly constructed or extensively rehabilitated home) of initial disbursement of the loan. The proposed change is designed to provide Federal credit unions the option of financing eventual retirement homes for their members.

Proposed § 701.21(f) (3) and (4) would carry over provisions of the current rule requiring that Federal credit unions utilize, for long-term mortgage loans, standard applications, security instruments and notes prepared by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. In light of the substantial deregulation of virtually all other aspects of the existing mortgage lending rules (as is further described below), and considering the relative inexperience of many Federal credit unions in making long-term mortgage loans, it is believed that retention of the requirement for use of these uniform documents may be in the best interest of all parties concerned. The documents have been prepared by knowledgeable sources and are readily available to Federal credit unions and other mortgage lenders. They are tailored for the jurisdiction in which the property is located. Utilization of these documents should serve to protect Federal credit unions against any possible defects in their notes and security interests, and, thus, ensure both the collectability of the loan and the ability of the credit union to realize upon the security, if necessary. Use of the uniform instruments should also facilitate sale of the loan if that is either planned or becomes necessary at a later date.

Uniform security instruments and notes are now available for conventional fixed rate mortgage loans, adjustable rate mortgage loans, growth equity mortgages and other alternative mortgages. Thus, assuming that a particular type of long-term mortgage loan complies with the relevant provisions of the Act, the proposed revised regulation would afford Federal credit unions the opportunity to participate in a full range of alternative mortgages.

The NCUA Board welcomes comment on whether the requirement for use of FNMA/FHLMC Uniform Instruments is advisable. Comments are also welcome on alternative methods for addressing NCUA's concerns while remaining as flexible as possible.

Proposed § 701.21(f)(5) carries over from the current regulations a prohibition against making loans secured by property located outside of the United States, its territories and possessions, and the Commonwealth of Puerto Rico. This prohibition is necessary because of the territorial reach of the Act, as set forth in section 126. (12 U.S.C. 1772.)

Section 701.21(f)(6) carries over the provision of the current rules concerning leasehold or ground rent estates. This provision clarifies that in jurisdictions, such as Hawaii, where an interest in real estate is customarily evidenced by a leasehold or ground rent estate, it is necessary to comply with the procedures customarily followed to perfect a security interest in the real estate.

Section 701.21(f)(7) carries over provisions of the current rules concerning the authority of Federal credit unions to use and exercise due-on-sale clauses in mortgage loan contracts. These provisions, which were promulgated in response to Pub. L. 97–320, are necessary in order to provide maximum flexibility in enforcement of due on sales clauses, which were previously required by NCUA regulations. The provisions were previously published at 47 FR 54424 (1982). That publication contains a more detailed explanation of their purpose and scope.

Except as indicated above, all restrictions and limitations of the current rules governing fixed rate and adjustable rate mortgages would be eliminated by the proposed revised rule. Included among those provisions proposed for elimination are the following: Section 701.21–6(b)(2) of the current rule, requiring that loans be amortized in substantially equal monthly installments. (Elimination of this requirement incorporates previous action by the NCUA Board to facilitate the granting of growth equity mortgages by those credit unions that wish to do so. (See 47 FR 54424 (1982).) Section 701.21–6(b)(3) of the current rule, which limits the aggregate dollar amount of outstanding fixed rate mortgage loans to twenty-five percent of a credit union's assets. Section 701.21–6(b)(4), which establishes maximum loan to value ratios for long-term mortgage loans. Section 701.21–6(b)(9) concerning escrow accounts. Section 701.21–6(b)(10), which specifies certain documents that must be maintained in each loan file for a long-term mortgage loan. Section 701.21–6(c)(1) which prohibits a Federal credit union from granting a long-term mortgage loan on the prior condition that the borrower contract with specific persons or organizations for specified services such as insurance, real estate and legal services. (Proposed § 701.21(b)(9) would,

as previously explained, prevent Federal credit union officials and employees, and their family members, from receiving "kickbacks" or other fees in connection with procuring or insuring a loan.) Section 701.21–6(c)(4), which notes that recomputation may be required in the event of early repayment of a loan involving points or other finance charges in order to avoid a violation of the Act's usury ceiling. (Such a requirement would apply to any loan made by a Federal credit union that involves front-end charges, and the Board questions whether it is advisable or necessary to single out mortgage loans and create an appearance that there is any distinction from other loans in this respect.) Section 701.21–6B(d), establishing regulatory limitations on periodic adjustments of the interest rate and monthly payment on adjustable rate mortgage loans and on the type of index that may be used to determine rate adjustments. Finally, § 701.21–6B(f), which prohibits the assessment of fees in connection with adjustments to variable rate mortgage loans.

Again, all of the provisions listed in the above paragraph would be deleted (i.e., would not be carried over from the current rules). The Board is of the preliminary opinion that the provisions may unnecessarily restrict Federal credit unions and may be counter-productive to providing flexibility to Federal credit unions to develop loan programs tailored to the needs of their members. As with all aspects of this proposal, however, the issue is not predetermined, and the Board welcomes comment on whether any of these provisions should be retained either in the interest of safety and soundness or otherwise to protect the interests of credit unions and their members.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that the proposed rules, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the rules would increase their management flexibility, increase their competitive position and reduce their paperwork burdens. Therefore, a Regulatory Flexibility Analysis is not required.

Financial Regulation Simplification Act

Since the Proposed rules would reduce burdens and delay would cause unnecessary harm, the NCUA Board finds that full and separate consideration of all the requirements of the Financial Regulation Simplification Act is impracticable. The NCUA Board has, however, considered most of these policies, as set forth in the preamble above.

List of Subjects in 12 CFR Part 701

Credit Unions, Mortgages.

Authority: 12 U.S.C. 1757, 1766(a), and 1789(a)(11).

By the National Credit Union Administration Board on the 10th day of November, 1983.

Rosemary Brady,

Secretary of the Board.

PART 701—[AMENDED]

Accordingly, NCUA proposes to amend its existing rules and regulations as follows:

1. It is proposed that existing §§ 701.21–1 through 701.21–6 be removed and new § 701.21 be added to read as follows:

§ 701.21 Loans to members and lines of credit to members.

(a) *Statement of Scope and Purpose.* These regulations implement the provisions of section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) authorizing Federal credit unions to make loans to members and issue lines of credit (including credit cards) to members. Section 107(5) establishes various limitations on such loans and lines of credit related to factors such as maturity, rate of interest, security, loan amount and prepayment penalties. Some of the limitations vary depending on considerations such as the purpose of the loan, the nature of the borrower, and whether the loan is backed by a government guarantee. The primary purpose of § 701.21 of NCUA's regulations is to interpret and implement those statutory limitations. In addition, § 701.21 states the NCUA Board's intentions concerning preemption of state laws purporting to affect Federal credit union lending operations, and expands the authority of Federal credit unions to enforce due-on-sale clauses in certain real property loans. Also, while the provisions of § 701.21 generally are intended for application to Federal credit unions only, the authority and relevant provisions of the section may be utilized by state chartered credit unions with respect to alternative mortgage transactions, in accordance with Title VIII of Pub. L. 97–320. Finally, it is noted that § 701.21 does not apply to loans by Federal credit unions to other credit unions (although certain statutory limitations in section 107 of the Act apply), nor to loans to credit union organizations (which are governed by section 107(5)(D) of the Act and § 701.27 of NCUA's regulations).

(b) *General Rules*—(1) *Scope.* The provisions of § 701.21(b) apply to all loans to members and all lines of credit (including credit cards) to members, unless other provisions of § 701.21 indicate otherwise.

(2) *Preemption.* Section 701.21 is promulgated pursuant to the exclusive authority of the NCUA Board to regulate Federal credit union lending to members as set forth in section 107(5) of the Act. This exercise of the Board's authority preempts any state law purporting to affect the rates, terms and conditions of Federal credit union loans to members and lines of credit (including credit cards) to members.

(3) *Written policies.* The board of directors of each Federal credit union shall establish written lending policies consistent with the relevant provisions of the Act, § 701.21, and other applicable laws and regulations.

(4) *Credit application.* Consistent with policies established by the board of directors, the credit committee or loan officer shall ensure that a credit application is kept on file for each borrower supporting the decision to extend credit.

(5) *Loan maturity.* The maturity of a loan to a member may not exceed 12 years, except as otherwise provided in § 701.21.

(6) *Ten percent limit.* No loan or line of credit advance may be made to any member if such loan or advance would cause that member to be indebted to the Federal credit union upon loans and advances made to the member in an aggregate amount exceeding 10% of the credit union's total unimpaired shares and surplus.

(7) *Early payment.* A member may repay a loan, or outstanding balance on a line of credit, prior to maturity in whole or in part on any business day without penalty.

(8) *Loan interest rates*—(i) *General.* Except as otherwise authorized by the NCUA Board, a Federal credit union may make loans to its members at rates not to exceed 15 percent per year on the unpaid balance inclusive of all finance charges. Variable rate lending is permitted on the condition that either the highest rate assessed on the loan (or extension of credit) or the effective rate over the term of the loan (or extension of credit) does not exceed the maximum permissible rate.

(ii) *Temporary Rates*—(A) *Authorization.* Effective May 12, 1980, a Federal credit union may make loans to its members (including advances under a line of credit) at rates not to exceed 21 percent per year on the unpaid balance inclusive of all finance charges. This

authority does not abrogate contractual provisions requiring a lower rate.

(B) *Expiration.* After November 12, 1984, or as otherwise ordered by the NCUA Board, the maximum rate on Federal credit union loans to members shall revert to 15 percent per year. Rates in excess of 15 percent per year (in the discretion of the Federal credit union and as provided in the credit agreement) may be charged on closed end loans and open-end credit balances existing before November 13, 1984. Rates in excess of 15 percent per year cannot be charged on advances of open-end credit made after November 13, 1984. If higher rates are charged on balances existing before November 13, 1984, then payments made after November 12, 1984, shall, after assessment of interest and other charges, be used first to retire advances made before November 13, 1984, and then to retire advances made on or after November 13, 1984.

(9) *Prohibited Fees.* A Federal credit union shall not make any loan or extend any line or credit in connection with which, either directly or indirectly, any commission, fee or other compensation is to be received by any of the credit union's directors, officials, committee members or employees, or any immediate family members of such individuals, for procuring or insuring the loan.

(c) *Loans and Lines of Credit to Officials*—(1) *Purpose.* Sections 107(5)(A) (iv) and (v) of the Act require the approval of the board of directors of the Federal credit union in any case where the aggregate of loans to an official and loans on which that official serves as endorser or guarantor exceeds $10,000 plus pledged shares. This section implements the requirement by prescribing procedures for determining whether board of directors' approval is required. The section also prohibits preferential treatment of officials.

(2) *Official.* An "official" is any member of the board of directors, credit committee or supervisory committee.

(3) *Initial approval.* All applications for loans or lines of credit on which an official will be either a direct obligor or an endorser, cosigner or guarantor shall be initially acted upon by either the board of directors, the credit committee or a loan officer, as specified in the Federal credit union's bylaws.

(4) *Board of Directors Review.* The board of directors shall, in any case, review and approve or deny an application on which an official is a direct obligor, or endorser, cosigner or guarantor if the following computation produces a total in excess of $10,000:

(i) Add:

(A) The amount of the current application.

(B) The outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed or guaranteed by the official.

(C) The total unused portion of approved lines of credit extended to or endorsed or guaranteed by the official.

(ii) From the above total subtract:

(A) The amount of shares pledged by the official on loans or lines of credit extended to or endorsed or guaranteed by the official.

(B) The amount of shares to be pledged by the official on the loan or line of credit applied for.

(5) *Nonpreferential Treatment.* The rates, terms and conditions of any loan or line of credit made to an official, or on which an official is an endorser or guarantor, shall not be more favorable than the rates, terms and conditions for comparable loans or lines of credit to any other credit union member.

(d) *Insured, Guaranteed and Advance Commitment Loans.* A loan secured by the insurance or guarantee of, or with an advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either may be made for the maturity and under the terms and conditions, including rate of interest, specified in the law, regulations or program under which the insurance, guarantee or commitment is provided.

(e) *15 Year Loans.* Notwithstanding the general twelve year maturity limit on loans to members, a Federal credit union may make loans with maturities of up to 15 years in the case of (1) a loan to finance the purchase of a mobile home if the mobile home will be used as the member/borrower's residence and the loan is secured by a first lien on the mobile home and (2) a second mortgage loan (or first mortgage in the case of a residence on which there is no existing first mortgage) if the loan is secured by a residential dwelling which is the residence of the member/borrower.

(f) *Long-Term Mortgage Loans.*—(1) *Authority.* A Federal credit union may make residential real estate loans to members with maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case by case basis, subject to the conditions of the following subsections.

(2) *Statutory Limits.* A loan made pursuant to § 701.21(f) shall be made on a one to four family dwelling that is or will be the principal residence of the member borrower and the loan shall be secured by a perfected first lien in favor of the credit union on such dwelling (or a perfected first security interest in the case of a residential cooperative).

(3) *Loan Application.* The loan application shall be a completed standard Federal Home Loan Mortgage Corporation/Federal National Mortgage Association application form.

(4) *Security Instrument and Note.* The security instrument and note shall be executed on the current revision of the FNMA/FHLMC Uniform Instruments for the jurisdiction in which the property is located. No prepayment penalty shall be allowed, although a Federal credit union may require that any partial prepayments be made on the date monthly installments are due and be in the amount of that part of one or more monthly installments that would be applicable to principal.

(5) *First lien, territorial limits.* The loan shall be secured by a perfected first lien or first security interest in favor of the credit union supported by a properly executed and recorded security instrument. No loan shall be secured by a residence located outside the United States of America, its territories and possessions, or the commonwealth of Puerto Rico.

(6) *Leasehold or ground rent.* Where an interest in real estate is customarily evidenced by leasehold or ground rent estates, loans shall comply with the preceding provisions in addition to the procedures customarily followed to perfect an interest in a leasehold or ground rent estate.

(7) *Due-on-sale clauses.* (i) Except as otherwise provided herein, the exercise of a due-on-sale clause by a Federal credit union is governed exclusively by section 341 of Pub. L. 97-320 and by any regulations issued by the Federal Home Loan Bank Board implementing section 341.

(ii) In the case of a contract involving a long-term (greater than twelve years), fixed rate first mortgage loan which was made or assumed, including a transfer of the liened property subject to the loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such state has rendered a decision (or if the highest court has not so decided the date on which the next highest court has rendered a decision resulting in a final judgment if such decision applies statewide) prohibiting such exercise, and ending on October 15, 1982, a Federal credit union may exercise a due-on-sale clause in the case of a transfer which occurs on or after November 18, 1982, unless exercise of the due-on-sale clause would be based on any of the following:

(A) The creation of a lien or other encumbrance subordinate to the lender's

security instrument which does not relate to a transfer of rights of occupancy in the property;

(B) The creation of a purchase money security interest for household appliances;

(C) A transfer by devise, descent, or operation of law on the death of a joint tenant by the entirety;

(D) The granting of a leasehold interest of 3 years or less not containing an option to purchase;

(E) A transfer to a relative resulting from the death of a borrower;

(F) A transfer where the spouse or children of the borrower become an owner of the property;

(G) A transfer resulting from a decree of a dissolution of marriage, a legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(H) A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupany in the property; or

(I) Any other transfer or disposition described in regulations promulgated by the Federal Home Loan Bank Board.

§§ 701.22 and 701.23 [Redesignated from §§ 701.21-7 and 701.21-8]

2. It is proposed that existing §§ 701.21-7 and 701.21-8 be redesignated as §§ 701.22 and 701.23, respectively.

3. It is proposed the redesignated § 701.22 be amended by removing paragraph (b(3) and redesignating paragraph (b)(4) as new paragraph (b)(3).

4. It is proposed that redesignated §701.23 be amended by removing the reference in § 701.23(b)(1)(iv) to "section 701.21-6" and inserting in lieu thereof "§ 701.21(f)", and by removing the last sentence of § 701.23(b)(1)(iv).

[FR Doc. 83-31095 Filed 11-13-83; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-83-10]

Petitions for Rulemaking; Summary of Petitions Received and Disposition of Petitions Denied or Withdrawn

Correction

In FR Doc. 83-29723 beginning on page 50553 in the issue of Wednesday, November 2, 1983, make the following correction:

On page 50554, first column, under **DATES,** "January 3, 1983" should have read "January 3, 1984".

BILLING CODE 1505-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; Duty-Free Entry of Space Articles

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: This proposed regulation prescribes NASA's policy and procedures with respect to the duty-free entry of articles imported to be launched into space by NASA, including spare parts or necessary and uniquely associated support equipment in connection with a launch into space. The intent of this proposed regulation is to provide guidance on the use of the Administration's authority to certify that space articles may be imported duty-free.

DATE: Comments must be received in writing by January 17,1984.

ADDRESS: Office of General Counsel, Code GK-3, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert J. Wojtal (202) 755-3169.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration has determined that:

1. The proposed rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities. It would be applicable only to those persons or entities who import into the United States materials to be launched in space by NASA, including spare parts or necessary and uniquely associated support equipment in connection with a launch into space.

2. The proposed rule is not a major rule as defined in Executive Order 12291 (46 FR 13193, February 19, 1981).

List of Subjects in 14 CFR Part 1214

Payload specialist, Mission, Mission manager, NASA-related payload, Mission specialist, Investigator working group, Government employees, Government procurement, Security measures, Space transportation and exploration, Space Shuttle.

PART 1214—SPACE TRANSPORTATION SYSTEM

14 CFR Part 1214 is amended by adding a new Subpart 1214.15 to read as follows:

Subpart 1214.15—Duty-Free Entry of Space Articles

Sec.

Authority: Secs. 116 and 156 of Pub. L. 97-446, 96 Stat. 2335-2336 and 2345-2346 (19 U.S.C. 1202 note).

§ 1214.1500 Scope.

This subpart sets forth NASA's policy and procedures with respect to authorizing the duty-free entry of articles imported into the United States by any person or entity which are to be launched into space by NASA, including spare parts or necessary and uniquely associated support equipment in connection with a launch into space. It also deals with the duty-free entry of articles returned from space by NASA.

§1214.1501 Applicability.

(a) This subpart applies to qualifying articles entered or withdrawn from warehouse for consumption in the customs territory of the United States between January 27, 1983, and December 31, 1994, and to articles returned from space by NASA.

§ 1214.1502 Background.

In order to encourage and facilitate the use of NASA's launch services for the exploration and use of space, section 116 of Pub. L. 97-446 provides for the duty-free entry into the United States of certain articles that meet the following two conditions: First, the articles must be imported for NASA for its space related activities or the articles must be imported by another person or entity for the purpose of meeting its obligations under a launch services agreement with NASA. Second, NASA must certify to the Commissioner of Customs that the articles to be entered duty-free are to be imported to be launched into space or are spare parts or necessary and uniquely associated support equipment for use in connection with a launch into space. This exemption from duty is provided for in item 837.00, Tariff Schedules of the United States (19 U.S.C. 1202 note). Section 116 of Pub. L. 97-116 also provides for the duty-free

entry into the United States of articles returned from space by NASA.

§ 1214.1503 Authority to certify.

(a) The following NASA officials and their deputies are authorized, under the conditions described herein, to make the certification to the Commissioner of Customs required for the duty-free entry of space articles pursuant to item 837.00, Tariff Schedules of the United States (19 U.S.C. 1202, note). No further redelegation is authorized.

(1) The NASA Assistant Administrator for Procurement is authorized to issue the certification for articles imported into the United States which are procured by NASA or by other U.S. Government agencies, or by U.S. Government contractors or subcontractors when title to the articles is or will be vested in the U.S. Government pursuant to the terms of the contract or subcontract. Requests for certification should be sent to: H/Assistant Administrator for Procurement, Attn: HP–1/Director, Procurement Policy Division, National Aeronautics and Space Administration, Washington, DC 20546.

(2) The NASA Associate Administrator for External Relations is authorized to issue the certification for articles imported into the United States pursuant to international cooperative agreements. Requests for certification should be sent to: L/Associate Administrator for External Relations, Attn: LI–15/Director, International Affairs Division, National Aeronautics and Space Administration, Washington, DC 20546.

(3) The NASA Associate Administrator for Space Flight is authorized to issue the certification for articles imported into the United States by persons or entities or under agreements other than those identified in paragraphs (a) (1) and (2) of this secton. Requests for certification should be sent to: M/Associate Administrator for Space Flight, Attn: MC–7/Director, Customer Services Division, National Aeronautics and Space Administration, Washington, DC 20546.

(b) Each request for certification shall be reviewed by the Office of the NASA Comptroller and the Office of General Counsel and their concurrence obtained by the certifying official.

(c) To the extent an authorized NASA official approves a request for certification, that official shall sign a certificate in the following form:

Articles for the National Aeronautics and Space Administration, Item 837.00, TSUS

I certify that the articles identified in ——— attached, are articles to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space in accordance with item 837.00, Tariff Schedules of the United States.

Name ———

Date ———

(d) A blanket certificate for one or more launches for a launch customer is authorized but shall require written verification by a NASA official designated by a Director of a receiving NASA Installation that the articles imported meet the conditions of the certificate. The blanket certificate shall be in the following form but may be reasonably revised to accord with the circumstances.

Articles for the National Aeronautics and Space Administration, Item 837.00, TSUS

I certify that the articles for the launch of ——— payload(s) pursuant to the NASA Launch and Associated Services Agreement No ———, dated ——— with ——— are articles to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space, in accordance with item 837.00, Tariff Schedules of the United States. The necessary and uniquely associated support equipment is identified in ——— attached.

Before this certificate is used to obtain the duty-free entry of these articles, a cognizant NASA official at the receiving NASA Installation who is designated by the Installation Director shall verify in writing that specifically identified articles to be entered on a particular date are the articles described in this certificate. This verification and this certificate shall be presented to the U.S. Customs Service at the time entry for the particular articles is sought.

Name ———

Date ———

With respect to articles represented to be necessary and uniquely associated support equipment, the NASA official issuing the blanket certificate shall review these articles and approve their eligibility for duty-free entry. A description of these articles should be referred to in the blanket certificate and should be attached to it.

§ 1214.1504 Procedures.

(a) Request for certification shall be forwarded to the appropriate NASA official who has authority to certify as provided for in § 1214.1503.

(b) Each request for certification shall be accompanied by:

(1) A proposed certificate as provided for in § 1214.1503;

(2) The information and documentation required by 19 CFR 10.102(a);

(3) A statement with respect to each article, or each class of articles if all items in the class are substantially identical whether: (i) The article is to be launched into space by NASA (identify the launch agreement, launch vehicle and launch date(s)); or (ii) it is a spare part to an article to be launched into space; or (iii) it is necessary or uniquely associated support equipment for use in connection with a launch into space.

(4) If the article is represented to be necessary and uniquely associated support equipment for use in connection with a launch into space, with respect to each such article or each such class of articles to be imported, explain: (i) Why it is necessary and unique; and (ii) if the article may be used in connection with an activity other than a launch into space, whether or not it is intended to be so used. If it may be used in such other activity, NASA shall require, of non-U.S. Government agencies, as a condition to obtaining duty-free entry under this subpart, the customer to agree in the relevant NASA launch agreement not to use or in any manner dispose of those articles in the United States other than in connection with a launch into space; and

(5) The anticipated date of entry and port of entry for each article. If the article is to be transported in bond from the port of arrival to another port of entry in the United States, identify both ports.

(c) The signed certificate and its attachment will be forwarded to the NASA installation responsible for the duty-free entry of the materials. The procedures specified in 19 CFR 10.102 will be followed by the NASA installation in obtaining duty-free entry at the Customs port of entry. The NASA installation should ensure that, at the time the articles are to be released after Customs entry, the custody of the imported articles is transferred directly from the carrier or from the U.S. Customs Service to the NASA launch service customer or its agent.

(d) If articles procured under contract by NASA are imported prior to compliance with these procedures and it is essential that the articles be released from Customs custody prior to such compliance, the procedures outlined in 19 CFR 10.101 may be followed by cognizant NASA officials to secure the release of the articles from Customs custody. To the extent applicable, the procedures in § 1214.1504 shall be followed when time permits to obtain duty-free entry for the articles released from Customs custody.

§ 1214.1505 Necessary and uniquely associated support equipment.

The NASA certifying officer should take into account the following criteria

in determining whether an article is necessary and uniquely associated support equipment in connection with a launch into space. Applicability of one or more of the following non-exclusive criteria lends support to the conclusion that the article is necessary and uniquely associated support equipment.

(a) The article has been designed and manufactured solely to support the launch of a payload or launch vehicle.

(b) A standard article has been modified in a substantial and extraordinary way considering its physical or functional characteristics solely to support launch of a payload or launch vehicle.

(c) The article's potential use is limited to support the launch of a payload or launch vehicle.

(d) The article is available only from a source outside of the United States.

(e) The article is a component of a system purchased outside of the United States.

(f) The article is to be exported from the United States upon completion of its use as support equipment.

§ 1214.1506 Articles returned from space.

Pursuant to section 116 of Pub. L. 97-446, the return of articles from space by NASA shall not be considered an importation, and an entry of such material through the U.S Customs Service shall not be required. This provision is applicable to articles returned by NASA from space whether or not the articles were launched into space onboard a NASA launch vehicle.

James M. Beggs,

Administrator.

[FR Doc. 83-31058 Filed 11-17-83; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-090; (Texas—9 Addition II)]

High-Cost Gas Produced from Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Amended Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp. V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the amended recommendation of the Railroad Commission of Texas that the Travis Peak Formation be designated as a tight formation under § 271.703(d). The original recommendation was noticed in a Notice of Proposed Rulemaking issued December 15, 1981 (46 FR 62086, December 22, 1981).

DATES: Comments on the proposed rule are due on December 29, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 29, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION: Issued: November 14, 1983.

I. Background

On November 2, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Travis Peak Formation located in the northeastern part of the State of Texas and covering all of Railroad Commission Districts 5 and 6, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation (OPPR) was issued on December 15, 1981 (46 FR 62086, December 22, 1981) to determine whether Texas' recommendation that the Travis Peak Formation be designated as a tight formation should be adopted. On September 19, 1983, Texas submitted an amended recommendation for the Travis Peak Formation. This Notice of Proposed Rulemaking is hereby issued to give notice of the amended recommendation by Texas and to determine if the recommendation as amended should be adopted. Texas' original recommendation and September 19, 1983 revision and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

As originally submitted to the Commission, the recommended area consisted of all of the Travis Peak Formation found in Railroad Commission Districts 5 and 6, which include 47 counties. In support of the recommendation, Texas furnished data from 606 successful completions in the Travis Peak Formation. In situ permeability data were supplied for 561 of the data wells and prestimulated flow test data were provided for 591 of the data wells. The recommendation also provided data that showed there were 56 active Travis Peak Formation oil fields within the area.

Texas has determined that approximately 45 gas wells included as data wells in the original recommendations do not meet the guidelines specified in the Commission's regulations. According to Texas, the well logs of these 45 wells indicate that current production from the wells is from the uppermost sands within the Travis Peak Formation, all of which are located within the top 200 feet of the formations. Therefore, Texas has submitted an amended recommendation to exclude the top 200 feet of the Travis Peak Formation from the 45 wells and to exclude those wells designated as oil wells in the original recommendation. The amended recommendation provides no further data nor does it locate or name any of the oil wells or the above mentioned 45 wells. Texas' amendment proposes that all other gas wells in the Travis Peak Formation plus all of the sections of the formation below 200 feet in the above 45 wells and all undrilled acreage which might produce gas from the recommended portions of the Travis Peak Formation in Railroad Commission Districts 5 and 6 be designated as a tight formation.

Texas recommends that the Commission adopt the original recommendation of October 26, 1981, which was submitted to the Commission on November 2, 1981, or in the alternative, adopt the amended recommendation described above which was submitted on September 19, 1983.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs ¶ 30,180 (1980), notice is hereby

given of the proposal submitted by Texas that the Travis Peak Formation, as described and delineated in Texas' recommendation, as amended and filed with the Commission, be designated as a tight formation pursuant to § 271.703.

III. Public Comments Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before December 29, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-090 (Texas—9 Addition II), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An orginal and 14 conformed copeis should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 29, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(36)(iv) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(36) *Travis Peak Formation in Texas.* RM79-76 (Texas—9)

* * * * *

(iv) *Railroad Commission Districts 5 and 6*—(A) *Delineation of formation.* The Travis Peak Formation is found in northeast Texas and includes all of Railroad Commission Districts 5 and 6 which contain 47 counties. The uppermost 200 feet of 45 data wells and all wells that have been designated as oil wells are excluded.

(B) *Depth.* The top of the Travis Peak Formation is found at a depth of 3,140 feet in Lamar County in the northern area of the east Texas basin and at 10,850 feet in the southern part of the basin in Cherokee County. The formation ranges in thickness from approximately 500 feet in the north to 2,500 feet in the south.

[FR Doc. 83-31135 Filed 11-17-83; 8:45 am]

BILLING CODE 6717-01-M

---

18 CFR Part 271

[Docket No. RM79-76-216; (Texas—39)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Barnett Shale Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 29, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 29, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: November 14, 1983.

I. Background

On September 20, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Barnett Shale Formation in Wise, Montague, Clay, Jack, Denton, Palo Pinto, Parker and Tarrant Counties, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Barnett Shale Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Barnett Shale Formation in Wise, Montague, Clay, Jack and Denton Counties, Railroad Commission District 9, Palo Pinto and Parker Counties, Railroad Commission District 7B, and Tarrant County, Railroad Commission District 5, be designated as a tight formation. The recommended area is located in the north central portion of Texas and covers 7,524 square miles.

The Barnett Shale Formation consists of fine-grained black shale interbedded with occasional silt and limestone stringers deposited along the southwest flank of the Texas peninsula. It lies unconformably over the Ordovician (Ellenburger) and is overlain by the Barnett Lime or the Pennsylvanian Morrow.

In the recommended eight county area, the top of the Barnett Shale varies from an estimated sub-sea depth of 2,600 feet in Palo Pinto County to 7,900 feet in Tarrant County, and has a thickness that varies from 100 feet in Young County to 950 feet in Montague and

Cooke Counties. In a typical well log for the Barnett Shale, the Mitchell Energy Corporation C. W. Slay No. 1 well located in Wise County, the Barnett Shale is defined as that interval found between the electric log depths of 7,194 feet and 7,444 feet, having a thickness of 250 feet. The C. W. Slay No. 1 well and the Mitchell Energy Corporation J. D. Karnes No. 7 well, also located in Wise County, are the only wells at the present time which are completed in and producing from the Barnett Shale.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on July 14, 1983, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Texas that the Barnett Shale Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 29, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–216 (Texas—39), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An orginal and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 29, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formation.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7701 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(186) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(186) *Barnett Shale Formation in Texas.* RM79–76 (Texas—39)

(i) *Delineation of formation.* The Barnett Shale Formation is found in Texas in Wise, Montague, Clay, Jack and Denton Counties, Railroad Commission District 9, Palo Pinto and Parker Counties, Railroad Commission District 7B, and Tarrant County, Railroad Commission District 5. The designated area covers 7,524 square miles.

(ii) *Depth.* The Barnett Shale Formation in the designated area lies uncomformably over the Ordovician (Ellenburger) and lies below the Barnett Lime or Pennsylvanian Morrow. The depth to the top of the Barnett Shale Formation varies from an estimated subsea depth of 2,600 feet in Palo Pinto County to 7,900 feet in Tarrant County, with a thickness ranging from 100 feet in Young County to 950 feet in Montague and Cook Counties. A typical Barnett Shale section occurs between the electric log depths of 7,194 feet and 7,444 feet on the well log of the Mitchell Energy Corporation C. W. Slay No. 1 well.

[FR Doc. 83-31136 Filed 11-17-83; 8:45 am]

BILLING CODE 6717-01M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Personal Services Income of Nonresident Alien Individuals

Correction

In FR Doc. 83–30482 beginning on page 51788 of the issue of Monday, November 14, 1983, make the following change. On page 51794, first column, in § 1.1461–2(c)(3), the paragraph designated "(iii)" should be "(ii)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Curecanti National Recreation Area, Colorado; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulation set forth below is necessary to designate those areas within Curecanti National Recreation Area where snowmobiles may be used for recreational purposes in keeping with traditional use and environmental concerns. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the recreation area in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior. As such, limitations on weight of vehicle is considered a safety imperative due to the nature of the surface to be traveled.

Restrictions as to areas available for snowmobile travel will be determined by the superintendent as conditions warrant.

DATES: Written comments, suggestions or objections will be accepted until December 19, 1983.

ADDRESS: Comments should be directed to: Superintendent, Curecanti National Recreation Area, P.O. Box 1040, Gunnison, Colorado 81230.

FOR FURTHER INFORMATION CONTACT: Glen Alexander, Superintendent, Curecanti National Recreation Area, Telephone: (303) 641-2337.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued on February 9, 1972 (37 FR 3877), directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by Federal Register notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the Federal Register on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. Snowmobile use must be consistent with the park's natural, cultural, scenic and aesthetic values; reflect safety considerations and park management objectives; and not result in disturbing wildlife or damaging other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

This proposed regulation is necessary to comply with Servicewide policy. Its promulgation also responds to public interest in additional recreational opportunities at Curecanti National Recreation Area. Snowmobile use areas will comprise the frozen water surface of, and designated access roads to, Blue Mesa Lake within the recreation area, which are normally used by motorboats and motorized vehicles during the open water seasons.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following individual participated in the writing of this regulation: James C. Riggs, Curecanti National Recreation Area.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that no substantial costs, if any, should result for any small entity. There may be a limited positive result for local repair shops, filling stations, parts stores, and retail snowmobile outlets.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental analysis of this proposed rule, which is available at the address noted above.

List of Subjects in 36 CFR Part 7

National parks.

Authority: Section 3 of the Act of August 23, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by adding a new § 7.51 to read as follows:

§ 7.51 Curecanti National Recreation Area.

(a)-(b) [Reserved]

(c) *Snowmobiles.* Snowmobiles are permitted to operate within the boundaries of Curecanti National Recreation Area provided:

(1) That the operators and machines conform to the laws and regulations governing the use of snowmobiles as stated in this chapter and those applicable to snowmobile use promulgated by the State of Colorado where they prove to be more stringent or restrictive than those of the Department of the Interior.

(2) That their use is confined to the frozen surface of Blue Mesa Lake, and designated access roads. A map of areas and routes open to snowmobile use will be available in the office of the superintendent.

(3) That, for the purposes of this section, snowmobile gross weight will be limited to a maximum of 1200 lbs. (machine and cargo) unless prior permission is granted by the superintendent.

Dated: June 9, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-31123 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 18

Nondiscrimination on the Basis of Age

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration (VA) proposes specific regulations to carry out its responsibilities under the "Age Discrimination Act of 1975" and the governmentwide regulations published in the Federal Register on June 12, 1979, codified at 45 CFR Part 90. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. These regulations discuss what is age discrimination under the Act, the

circumstances under which a statutory exception may be invoked, the responsibilities of the Veterans Administration and recipients of Federal financial assistance from the VA; and the investigations, conciliation and enforcement procedures VA will use to ensure compliance with the Act and its regulations.

DATES: Comments must be received on or before December 19, 1983. We propose to make these regulations effective 30 days from the date of final publication.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations to: Administrator of Veterans Affairs (271A), 819 Vermont Avenue, NW, Washington, DC 20420. All written comments will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Ana M. del Toro, Office of Equal Opportunity, (202) 389–2150.

SUPPLEMENTARY INFORMATION:

Background

In November 1975, Congress enacted the "Age Discrimination Act" (42 U.S.C. 6101, et seq.) as part of the "Amendments to the Older Americans Act" (Pub. L. 94–135). At the time, the express purpose of the Act was to prohibit unreasonable discrimination based on age in programs and activities receiving Federal financial assistance, including the "State and Local Fiscal Assistance Act of 1972." The Act also permitted federally assisted programs and activities, and recipients of Federal funds, to continue to use: (1) Some age distinctions, and (2) "reasonable factors other than age." The Act applies to persons of all ages.

Prior to the promulgation of any regulations, the Act required the Commission on Civil Rights to conduct a study of age discrimination in Federally funded programs and activities. The Commission transmitted its study to the President and the Congress on January 10, 1978. The Commission published the second part of its study in January 1979. The Act also required each affected Federal agency to respond to the Commission's findings and recommendations.

After the receipt of the report of the Commission on Civil Rights and the Federal agency responses to the report, the Congress considered amendments to the Age Discrimination Act of 1957. In October 1978, Congress amended the Act (Pub. L. 95–487). Congress struck the word "unreasonable" from the statement of purpose clause, so that the purpose of the Act is to prohibit discrimination based on age in programs and activities receiving Federal financial assistance. However, the Congress retained the exceptions to the prohibition against age discrimination. Thus the Act still permits the use of: (1) Some age distinctions, and (2) "reasonable factors other than age."

The Act required the Department of Health and Human Services (HHS), formerly the Department of Health, Education and Welfare, to develop and issue governmentwide regulations to guide the development of specific regulations by each Federal agency that administers programs of Federal financial assistance. HHS's final governmentwide regulations were published in the **Federal Register** on June 12, 1979 (45 CFR Part 90).

The Act and the governmentwide regulations require VA to issue proposed and then final regulations applicable to its specific federally assisted programs and activities. In addition to publishing specific regulations consistent with the governmentwide regulations, the following actions will be taken by VA in connection with the implementation of the Act:

1. An appendix, listing all age distinctions which appear in Federal statutes and regulations and which affect VA's programs of financial assistance, will be included in the final regulations.

2. VA must review any age distinction it imposes on its recipients by regulations or by administrative action in order to determine whether these distinctions are permissible under the Act. This review must be completed within 12 months after publication of Va's final regulations and must be published for public comment in the **Federal Register.**

3. VA must review the effectiveness of its regulations 30 months after their effective date. The review is to be published in the **Federal Register** with an opportunity for public comment.

Overview of the Regulations

These regulations are divided into four major sections: General; Standards for Determining Age Discrimination; Responsibilities of Recipients; and Investigation, Conciliation, and Enforcement Procedures.

The "General" section of the regulations explains the purpose of VA's age discrimination regulations and defines terms used throughout the document. Section 18.503(j) defines the term "recipient." It should be noted that these regulations do not apply to assistance programs administered by the Federal government directly to beneficiaries, e.g., individual payment of veterans' benefits (compensation). However, the regulations may apply whenever direct aid is provided to an individual on condition that the aid be spent in providing services or benefits to others.

The general and specific prohibitions against discrimination on the basis of age (§ 18.511), as well as the exceptions to those prohibitions (§ 18.513), are set forth in the sections under "Standards for Determining Age Discrimination." As a general rule, under the regulations, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the VA.

The Act contains several exceptions which limit the general prohibitions against age discrimination. Section 304(b)(1) of the Act permits the use of age distinctions which are based on reasonable factors other than age. The regulations provide definitions for two terms which are essential to an understanding of those exceptions: "normal operation" and "statutory objective" (§ 18.513). "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives. "Statutory objective" is defined to mean any purpose which is explicitly stated in a federal statute, State statute or local statute or ordinance.

The regulations establish a four-part test, all parts of which must be met for an explicit age distinction to satisfy one of the statutory exceptions and to continue in use in a federally assisted program (§ 18.513). This four-part test will be used to scrutinize age distinctions which are imposed in the administration of VA's assisted programs, but which are not explicitly authorized by a Federal, State or local statute.

Recipients of VA funds are permitted to take an action otherwise prohibited by the Act, if the action is based on "reasonable factors other than age." In that event, the action may be taken though it has a disproportionate effect on persons of different ages. However, according to the regulations (§ 18.515), the factor other than age must bear a direct and substantial relationship to the program's normal operation or to the achievement of a statutory objective.

Sections under "Responsibilities of Recipients" explain the duties of VA recipients. VA recipients are responsible for ensuring that their programs and activities are in compliance with the Act and these regulations (§ 18.531).

Where a VA recipient initially receiving funds makes those funds available to a subrecipient, the recipient must notify subrecipients of their obligations under the Act and these regulations (§ 18.532).

Each recipient of Federal financial assistance must sign an assurance that it will comply with the Act and its regulations. The VA may require recipients employing the equivalent of 15 or more full-time employees to examine their use of age distinctions under the Act as part of a compliance review or a complaint investigation conducted by the VA (§ 18.533).

Each VA recipient must make available to the VA upon request information that the VA determines is necessary to establish whether the recipient is in compliance with the Act and these regulations. Recipients must allow the VA reasonable access to books, records, other recipient facilities and sources of information to the extent necessary to determine compliance with the Act and its regulations (§ 18.541).

The sections under "Investigation, Conciliation, and Enforcement Procedures" establish the procedures for investigation, conciliation, and enforcement of the Act. These procedures reflect the procedural requirements of HHS's governmentwide regulations.

Section 18.543 introduces mediation into the complaint process for age discrimination. The VA will refer all complaints of discrimination under the Act to the Federal Mediation and Conciliation Service (FMCS), which was designated by the Secretary of HHS to manage the mediation process. Complainants and recipients are required to participate in the effort to reach a mutually satisfactory mediated settlement of the complaint. Mediation may last no more than 60 days from the date the responsible agency official receives the complaint. No further action will be taken by VA in connection with a successfully mediated complaint. However, VA will investigate complaints which are unresolved after mediation or are reopened because the mediation agreement is violated.

Finally, the regulations permit the VA to disburse withheld funds to an appropriate alternate recipient. The alternate recipient must be in compliance with the regulation and must demonstrate the ability to achieve the goals of the program for which funds were originally extended.

Regulatory Requirements

Regulatory Flexibility Act

The Administrator of Veterans Affairs hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602. Pursuant to 5 U.S.C. 605(b), these proposed regulations therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Executive Order 12291

The VA has determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete in domestic or export markets.

Paperwork Reduction Act

The information collection requirements contained in these regulations (§§ 18.532 and 18.542) will be submitted to OMB for review under Section 3504(h) of the act. Comments on the information collection requirements should be directed to: Office of Information and Regulatory Affairs of OMB, Attention: Dick Eisinger, Washington, DC 20503 (202–395–6880).

List of Subjects in 38 CFR Part 18

Administrative practice and procedure, Age discrimination, Authority delegations, Civil rights, Handicapped.

Approved: October 24, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

38 CFR Part 18 is amended by adding a new Subpart E to read as follows:

PART 18—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE VETERANS ADMINISTRATION

Subpart E—Nondiscrimination on the Basis of Age

General

Sec.

Standards for Determining Age Discrimination

Sec.

Responsibilities of Veterans Administration Recipients

Investigation, Conciliation, and Enforcement Procedures

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq.; 45 CFR Part 90 (1979).

Subpart E—Nondiscrimination on the Basis of Age

General

§ 18.501 Purpose.

The purpose of these regulations is to set out VA (Veterans Administration) policies and procedures under the Age Discrimination Act of 1975 and the governmentwide age discrimination regulations at 45 CFR Part 90. The Act and the governmentwide regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the governmentwide regulations permit federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

(42 U.S.C. 6101–6107)

§ 18.502 Application.

(a) These regulations apply to any program or activity receiving Federal financial assistance provided by the VA directly or through another recipient.

(b) These regulations do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act (CETA), 29 U.S.C. 801 et seq.

(42 U.S.C. 6101–6107)

§ 18.503 Definitions.

As used in these regulations:

(a) "Act" means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94–135, 42 U.S.C. 6101–6107.)

(b) "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) "Administrator" means the Administrator of Veterans Affairs or designees.

(d) "Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

(e) "Age discrimination" means unlawful treatment based on age.

(f) "Age distinction" means any action using age or an age-related term.

(g) "Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(h) "Day" means calendar day.

(i) "Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which a Federal agency or department provides or otherwise makes available assistance in the form of:

(1) Funds; or

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its market value is not returned to the Federal Government.

(j) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(k) "Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

(l) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, the Trust Territories of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

(42 U.S.C. 6101–6107)

Standards for Determining Age Discrimination

§ 18.511 Rules against age discrimination.

The rules in this section are limited by the exceptions contained in §§ 18.513 and 18.514 of these regulations.

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(42 U.S.C. 6101–6107)

§ 18.512 Definitions of "normal operation" and "statutory objective."

For the purpose of these regulations, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(42 U.S.C. 6101–6107)

§ 18.513 Exceptions to the rules against age discrimination; normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by § 18.511, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one of more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

(42 U.S.C. 6101–6107)

§ 18.514 Exceptions to the rules against age discrimination; reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by § 18.511 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

(42 U.S.C. 6101–6107)

§ 18.515 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outline in §§ 18.513 and 18.514 is on the recipient of Federal financial assistance.

(42 U.S.C. 6101–6107)

§ 18.516 Affirmative action by recipients.

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(42 U.S.C. 6101–6107)

Responsibilities of Veterans Administration Recipients

§ 18.531 General responsibilities.

Each VA recipient must ensure that its programs and activities are in compliance with the Act and these regulations.

(42 U.S.C. 6101–6107)

§ 18.532 Notice of subrecipients.

Where a recipient passes on Federal financial assistance from the VA to programs and activities of subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and these regulations with respect to such programs and activities.

(42 U.S.C. 6101–6107)

§ 18.533 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from the VA shall sign a written assurance as specified by the Administrator that it will comply with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) As part of a compliance review under § 18.541 or complaint investigation under § 18.544, the Administrator may require a recipient employing the equivalent of 15 of more employees to complete a written self-evaluation, in a manner specified by the responsible agency official, of any age distinction imposed in its programs or activities receiving Federal financial assistance from the VA to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act or these regulations, the recipient shall take corrective action.

(42 U.S.C. 6101–6107)

§ 18.534 Information requirements.

Each recipient shall:

(a) Make available upon request to the VA information necessary to determine whether the recipient is complying with Act and these regulations.

(b) Permit reasonable access by the VA to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with the Act and these regulations.

(42 U.S.C. 6101–6107)

Investigation, Conciliation and Enforcement Procedures

§ 18.541 Compliance reviews.

(a) The VA may conduct compliance reviews and preaward reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. The VA may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If A compliance review or preaward review indicates a violation of the Act or these regulations, the VA will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the VA may institute enforcement proceedings as described in § 18.546.

(42 U.S.C. 6101–6107)

§ 18.542 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with the VA alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, the VA may extend this time limit. Complaints may be submitted to the Director, Office of Equal Opportunity (006B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

(b) The VA will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and the these regulations.

(4) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact the VA for information and assistance regarding the complaint resolution process.

(c) The VA will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

(42 U.S.C. 6101–6107)

§ 18.543 Mediation.

(a) Referral of complaints for mediation. The VA will refer to the Federal Mediation and Conciliation Service all complaints that:

(1) Fall within the jurisdiction of the Act and these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to the VA. The VA will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjunctive proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) The VA will use the mediation process for a maximum of 60 days after the responsible agency official receives a complaint.

(f) Mediation ends if:

(1) 60 days elapse from the time the responsible agency official receives the complaint; or

(2) Prior to the end of that 60-day period, an agreement is reached; or

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(g) The mediator shall return unresolved complaints to the VA.

(42 U.S.C. 6101–6107)

§ 18.544 Investigation.

(a) *Informal investigation.* (1) The VA will investigate complaints that are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation the VA will use informal fact finding methods, including joint or separate discussions with the complainant and recipient to establish the fact and, if possible, settle the complaint on terms that are mutually agreeable to the parties. The VA may seek the assistance of any involved State program agency.

(3) The VA will put any agreement in writing and have it signed by the parties and an authorized official from the VA.

(4) The settlement shall not affect the operation of any other enforcement effort of the VA, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) A settlement need not contain an admission of discrimination or other wrongdoing by the recipient nor should it be considered a finding of discrimination against the recipient.

(b) *Formal investigation.* If the VA cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, the VA will attempt to obtain voluntary compliance. If voluntary compliance cannot be achieved, the VA may institute enforcement proceedings as described in § 18.546.

(42 U.S.C. 6101–6107)

§ 18.545 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of the VA's investigation, conciliation, and enforcement process.

(42 U.S.C. 6101–6107)

§ 18.546 Compliance procedure.

(a) The VA may enforce the Act and these regulations through:

(1) Termination of Federal financial assistance from the VA with respect to a recipient's program or activity that has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from the VA.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) The VA will limit any termination under paragraph (a)(1) of this section to the particular program or activity or part of such program and activity of a recipient that the VA finds to be in violation of the Act or these regulations. The VA will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from the VA.

(c) The VA will take not action under paragraph (a) of this section until:

(1) The Administrator has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Administrator has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Administrator will file a report whenever any action is taken under paragraph (a) of this section.

(d) The VA also may defer granting new Federal financial assistance from the VA to a recipient when a hearing under paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from the VA includes all assistance for which the VA requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities during the deferral period. New Federal financial assistance from the VA does not include increases in funding resulting solely from a change in the formula or method of computing awards, nor does it include assistance approved prior to the beginning of a hearing under paragraph (a)(1) of this section.

(2) The VA will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under paragraph (a)(1) of this section. The VA will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Administrator. The VA will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(42 U.S.C. 6101–6107)

§ 18.547 Hearings, decisions, post-termination proceedings.

Certain VA procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to the VA enforcement of these regulations. They are found at §§ 18.9 through 18.11 and Part 18b of this title.

(42 U.S.C. 6101–6107)

§ 18.548 Remedial action by recipient.

where the VA finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action that the VA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the VA may require both recipients to take remedial action.

(42 U.S.C. 6101–6107)

§ 18.549 Alternate funds disbursal procedure.

(a) When the VA withholds funds from a recipient under these regulations, the Administrator may disburse the withheld funds directly to an alternate recipient: any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Administrator will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

(42 U.S.C. 6101–6107)

§ 18.550 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the VA has made no finding with regard to the complaint; or

(2) The VA issues any finding in favor of the recipient.

(b) If the VA fails to make a finding within 180 days or issues a finding in favor of the recipient, the VA will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant that:

(i) The complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) A complainant prevailing in a civil actio has the right to be awarded the costs of the action, including reasonable attorney's fees, but the complainant must demand these costs in the complaint;

(iii) Before commencing the action, the compainant shall give 30 days notice by registered mail to the Administrator, the Attorney General of the United States, and the recipient;

(iv) The notice must state: the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) The complainant may not bring action if the same alleged violations of the Act by the same recipient is the subject of a pending action in any court of the United States.

(42 U.S.C. 6101–6107)

[FR Doc. 83-31119 Filed 11-17-83; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

(40 CFR Part 52)

[A-5-FRL 2471-3]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On March 15, 1983, the Indiana Air Pollution Control Board (IAPCB) submitted revisions to the total suspended particulate (TSP) and sulfur dioxide (SO_2) portions of its State Implementation Plan (SIP). The revisions are in the form of operating permits for the Sisters or Providence Convent in St. Mary-of-the-Woods, Indiana. EPA is today proposing approval of this revision. EPA believes approval of this revision will not interfere with the attainment and maintenance of the appropriate National Ambient Air Quality Standards (NAAQS).

DATE: Comments must be received on or before December 19, 1983.

ADDRESSES: Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), U.S. Environmental Protection Agency, Region, V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the revision to the Indiana SIP are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604; and

Air Pollution Control Division, Indiana Board of Health, 1330 W. Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Air and Radiation Branch, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604; (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Sisters of Providence Convent in St. Mary-of-the-Woods, Indiana is located in Vigo County, 6.5 km from the industrialized center of Terre Haute. Vigo County (including the area around the Sisters of Providence) is designated attainment for TSP, except for a small area in Terre Haute which in nonattainment. Although the entire county is designated as nonattainment for SO_2, EPA approved on May 13, 1982 (47 FR 20583) an SO_2 Part D strategy for Vigo County. EPA has reviewed this SIP revision and is proposing approval of this revision. A detailed review of this SIP revision is contained in EPA's Technical Support Documents of August 2, 1983, January 11, 1983, and October 7, 1982.

The SO_2 limits proposed in the operating permit reflect a reduction in the current 1255 tons per year allowed by Indiana's SIP Rule 325 IAC 7-1 to 509.6 tons per year. The emission limit for this source in lbs/MMBTU is not being changed. Since the current emission level was previously modeled as a part of the Part D strategy, and demonstrated to be adequate to ensure attainment and maintenance of the ambient air quality standards, EPA believes that the proposed lower annual emission limit will also protect the SO_2 NAAQS.

The TSP SIP limits proposed in the operating permit will retain the annual emission limits as listed in Indiana's Rule 325 IAC 6-1-13, but will raise the hourly limits from 20.52 lb/hr to 42.6 lb/hr on boilers 2 and 3 and from 24.24 lb/hr to 32.86 lb/hr on boilers 5,7, and 8. This change in hourly emission limits will not cause an increase in actual emission from these boilers, because the proposed emission limits represent status quo emissions. Again, the emission limit in lbs/MMBTU is not being changed.

Additionally, screening analyses submitted by the local air pollution control agency demonstrate that the revised hourly emission limits will not interfere with the attainment and maintenance of the TSP NAAQS.

EPA is providing a 30-day comment period on this proposed rulemaking action. Public comment received on or before December 19, 1983 will be considered in EPA's final rulemaking. When possible, comments should be submitted in triplicate. All comments will be available for inspection during normal business hours at the Region V Office listed at the beginning of this notice. Please call the contact person listed at the beginning of this notice, before visiting the Region V Office.

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate Matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

This proposed rulemaking is issued pursuant to the authority of Section 110 of the Clean Air Act, as amended 42 U.S.C. 7410.

Dated: September 29, 1983.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 83-30058 Filed 11-17-83; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-1-FR 2471-4]

Approval and Promulgation of Implementation Plans; Massachusetts; Petroleum Liquid Storage in External Floating Roof Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan revision submitted by the Commonwealth of Massachusetts. This revision will reduce emissions from petroleum liquid storage in external floating roof tanks. The intended effect of this action is to control the emissions of volatile organic compounds as required under Part D of the Clean Air Act.

DATES: Comments must be received on or before December 19, 1983. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203 and the Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene (617) 223-5131.

SUPPLEMENTARY INFORMATION: On May 4, 1983, Massachusetts submitted a revision to its ozone State Implementation Plan. This revision, 310 CMR 7.02(12)(a)(1e) adds the control of petroleum storage in external floating roof tanks to Massachusetts Regulation 310 CMR 7.02(12), "Organic Material, Bulk Plants and Terminals Handling Organic Material." The regulation requires that external floating roof tanks be fitted with a continuous secondary seal or an equivalent device by November, 1984. The installed seals will also be inspected semi-annually.

In the 1982 SIP, submitted on September 9, 1982 and published on November 9, 1983 (48 FR 51480), the State committed to a regulation developed schedule with a compliance date of December 31, 1983. This SIP revision changes that date to November 1, 1984.

EPA's Control Technique Guideline (CTG) (EPA 4502-79-004) allows one year from the regulation's effective date for compliance. Because of the time necessarily involved in federal approval of a SIP revision, the effective date of this May 4, 1983 revision will most likely not be until November, 1983 when the Final Rulemaking Notice (FRN) is published. It, therefore, is reasonable to give the industry additional time to comply with the regulation.

In the final submittal, DEQE will confirm that this SIP revision changes the compliance date from that which was committed to in the 1982 SIP development schedule (December 31, 1982) to November 1, 1984.

Background

On July 21, 1981, Massachusetts submitted its existing Regulation 310 CMR 7.02(12) for petroleum liquid storage in external floating roof tanks. We found that the regulation was not consistent with EPA guidance as referenced in the CTG: "Control of Violatile Organic Emissions from Petroleum Liquid Storage, External Floating Roof Tanks," because it did not require secondary seals, inspection of those seals or a compliance date. On February 8, 1982, (47 FR 5731) we took no action on the submittal and asked Massachusetts to submit an approval regulation or federally enforceable permits for the applicable sources.

We have the May 4, 1983 submittal and find that it is approvable if the State, in its final submittal, incorporates reporting requirements into the regulation and describes the process that will be used to determine the equivalence of alternative controls.

EPA is proposing to approve the Massachusetts State Implementation Plan revision for petroleum liquid storage in external floating roof tanks, and is soliciting public comments on issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written commens to EPA at the address noted above.

These revisions are being proposed under a procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised Notice of Proposed Rulemaking. If no substantial changes are made other than those areas cited in this Notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the Commonwealth and submitted to EPA for incorporation into the SIP. "Parallel processing", it is estimated, will reduce the time necessary for final approval of these SIP revisions by 3 to 4 months.

Proposed Action

EPA is proposing to approve the revision to 310 CMR 7.02(12)(a) 1e, "Organic Material, Bulk Plants and Terminals Handling Organic Material," for the control of petroleum liquid storage in external floating roof tanks, with the understanding that prior to final rulemaking: (1) The regulation will specify that records will be kept for a minimum of 2 years, be available to the Director and subject to additional requirements upon the Director's request, (2) the Department will describe the process that will be used to determine the equivalence of alternative controls.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2) (A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(A) and 7601(A)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: July 18, 1983.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 83-30959 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 61

[CC Docket No. 83-992]

Amendment of the Commission's Rules With Regard to Tariffs

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects typographic error in the Notice of Proposed Rule Making affecting Parts 1 and 61 of the Commission's Rules, published October 24, 1983, 48 FR 49033. The affected rule section governs the

time for filing consolidated replies to petitions against tariff filings.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stan Wiggins, Tariff Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6917.

Erratum

In the matter of amendments of Parts 1 and 61 of the Commission's rules; CC Docket No. 83-992.

Released: November 10, 1983.

§ 1.773 [Corrected]

1. Proposed § 1.773(b)(1)(iv), set out in Appendix E of the Notice, should read as follows:

(iv) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by (a)(2)(i)–(iii) of this section, and the date on which the consolidated reply is due will be governed by (b)(1)(i)–(iii) of this section.

This corrects the second paragraph of the Erratum released October 27, 1983.

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83-31132 Filed 11-17-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 224
Friday, November 18, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

President's Task Force on Food Assistance; Meeting

In compliance with the Federal Advisory Committee Act (5 U.S.C. App. I) the United States Department of Agriculture announces the following meeting:

Name: President's Task Force on Food Assistance.

Date: December 2, 1983.

Time: 9:00–4:00.

Place: Faneuil Hall, Congress and State Streets, Boston, Massachusetts.

Type of Meeting: Open hearings. Persons wishing to speak at the hearing should call or write the Task Force on Food Assistance, New Executive Office Building, Room 2020, 720 Jackson Place, NW., Washington, D.C. 20503 (Telephone: 202–395–3454) in order to obtain a place on the agenda.

Contact for Further Information: Ms. Irene Lankford, Food and Nutrition Service, U.S. Department of Agriculture, Room 1103, 3101 Park Center Drive, Alexandria, Virginia 22302 (Telephone: 703–756–3065).

Done at Washington, D.C. this 14th day of November 1983.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 83-31066 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-01-M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date: December 7, 1983.

Time: 8:00 a.m.–4:00 p.m.

Place: Breckenridge King's Inn, 9600 Natural Bridge Road, St. Louis, Missouri

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

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

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250; telephone: 202/447–4329.

Done at Washington, D.C., this 10th day of November 1983.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 83-31079 Filed 11-17-83; 8:45 am]

BILLING CODE 3410-22-M

CIVIL AERONAUTICS BOARD

Foreign Air Carrier Permits; AeroPeru et al.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause; Order 83–11–56.

SUMMARY: The board proposes to deny the foreign air carrier permit applications of AeroPeru (Empresa de Transportes Aereo del Peru), Aeronaves del Peru, S.A. and Compania de Aviacion "Faucett," S.A.

Objections

All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than November 18, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Dockets 32089, 32945, 33546, 34168, 36637, 40850, and 35755 Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all affected carriers and the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue a final order denying the foreign air carrier permit applications of AeroPeru, Aeronaves, and Facuett.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington metropolitan area may send a postcard request.

For further information, contact Don Hainbach, (202) 673–6035, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 15, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-31211 Filed 11-17-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-007]

Initiation of Antidumping Duty Investigation; Barium Chloride From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether barium chloride from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before December 9, 1983 and we will make ours on or before April 2, 1984.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Office of

Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–4929.

SUPPLEMENTARY INFORMATION: On October 25, 1983, we received a petition in proper form from Chemical Products Corporation of Cartersville, Georgia, the only known producer of barium chloride in the United States. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determination.

The petition further alleges that the PRC is a state-controlled economy country within the meaning of the Act. It alleges that sales of barium chloride in the PRC do not permit a determination of foreign market value and that there is no non-state-controlled economy country at a stage of economic development comparable to the PRC. Therefore, for the purposes of determining the foreign market value of this product, the petitioner suggests that the Department use the constructed value of the product in the PRC. In determining the constructed value of barium chloride in the PRC, the petitioner quantified the factors of production based on its own production factors and on its knowledge of production methods in the PRC. The factors of production were valued in the U.S., from data available to petitioner, to arrive at an *ex-factory* constructed value for barium chloride imported into the U.S. from the PRC. The *ex-factory* U.S. price was developed by the petitioner from FOB warehouse prices offered to United States customers by importers of barium chloride from the PRC.

Initiation of Investigation

Under section 732(2) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the sole domestic manufacturer of barium chloride, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether barium chloride from the PRC is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by April 2, 1984.

Scope of Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formula BaC12 or BaC12-2H20. Barium chloride is currently classified under item 417.7000 of the *Tariff Schedules of the United States Annotated.*

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of barium chloride from the PRC are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, the investigation will terminate; otherwise this investigation will proceed according to the statutory procedures.

Signed: November 10, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-31110 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-25-M

[A-570-006]

Initiation of Antidumping Duty Investigation: Barium Carbonate From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether barium carbonate from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before December 9, 1983 and we will make ours on or before April 2, 1984.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–4929.

SUPPLEMENTARY INFORMATION: On October 25, 1983, we received a petition in proper form from Chemical Products Corporation of Cartersville, Georgia, on behalf of the barium carbonate industry in the United States. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673)(the Act), and that these imports are materially injuring, or are threatening to materailly injure, a United States industry. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determination.

The petition further alleges that the PRC is a state-controlled economy country within the meaning of the Act. It alleges that sales of barium carbonate in the PRC do not permit a determination of foreign market value and that the Department of Commerce must choose a non-state-controlled economy country to be used as a surrogate for the purposes of determining the foreign market value of this product.

The petitioner suggests Mexico or Brazil as possible surrogate countries and supports its allegation of sales at less than fair value by comparing the average *ex-factory* sales price of barium

carbonate in each of these countries to the average *ex-factory* price of barium carbonate imported into the United States from the PRC. The *ex-factory* U.S. price was developed by the petitioner from FOB warehouse prices offered to United States customers by importers of barium carbonate from the PRC. The *ex-factory* sales prices in Mexico and Brazil were obtained from producers in those countries.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed on behalf of the barium carbonate industry in the United States, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether barium carbonate from the PRC is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by April 2, 1984.

Scope of Investigation

The merchandise covered by this investigation is barium carbonate, a chemical compound having the formula $BaCO_3$. Barium carbonate is currently classified under item 472.0600 of the *Tariff Schedules of the United States Annotated.*

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of barium carbonate from the PRC are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, the investigation will terminate; otherwise this investigation will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 10, 1983.

[FR Doc. 83-31111 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-25-M

[C201-017]

Initiation of Countervailing Duty Investigation; Bricks From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of bricks as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before January 17, 1984.

EFFECTIVE DATE: November 18, 1983.

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

SUPPLEMENTARY INFORMATION:

Petition

On October 24, 1983, we received a petition filed on behalf of the Brick Institute of Texas, whose members produce bricks. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of bricks receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. The merchandise being investigated is dutiable, and there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require an injury determination. Therefore, under this section the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on brick, and we have found that the petition meets those requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Mexico of bricks, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by January 17, 1984.

Scope of the Investigation

The products covered by this investigation are magnesite refractory bricks; unglazed solid bricks; and unglazed hollow bricks. These products are respectively classified under item numbers 531.2400, 532.1120 and 532.1140 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Mexico of brick receive the following benefits which constitute bounties or grants: preferential federal tax credits and exemptions (CEPROFI); preferential preexport and export financing (FOMEX); import duty reductions and exemptions; the Encaje Legal Financing; Fund for Industrial Development (FONEI); depreciation advantages under the development program; tax rebates for exports (CEDIs); and preferential prices because of regional discounts for natural gas, other fuels and transportation. In addition, we will include in this investigation the Mexican government programs which, in prior cases, we have found might confer countervailable benefits; i.e., Guarantee and Development Fund for Medium and Small Businesses (FOGAIN); Mexican Institute for Foreign Trade (IMCE); Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN); National Preinvestment Fund for Studies and Projects (FONEP); National Fund for Industrial Promotion (FOMIN);

preferential federal and state investment incentives; government financed technology development; preferential vessel, freight, terminal, and insurance benefits; accelerated depreciation allowances; and investment credits for new machinery.

Dated: November 14, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-31109 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-019]

Preliminary Determinations of Sales at Less Than Fair Value; Cyanuric Acid and Its Chlorinated Derivatives From Japan Used in the Swimming Pool Trade

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determinations.

SUMMARY: We have preliminarily determined that cyanuric acid and its chlorinated derivatives from Japan used in the swimming pool trade are being, or are likely to be, sold in the United States at less than fair value. We have notified the United States International Trade Commission of our determinations, and we have directed the United States Customs Service to suspend the liquidation of certain entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If these investigations proceed normally, we will make our final determinations by January 24, 1984.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1778 or 377-1756.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We have preliminarily determined that there is a reasonable basis to believe or suspect that cyanuric acid and its chlorinated derivatives (CA&CD) from Japan used in the swimming pool trade are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We have found that the foreign market value of CA&CD exceeded the United States price on 82.2 percent of the sales. These margins ranged from 0.0 percent to 52.7 percent. The overall weighted-average margins on all sales compared are 4.8 percent for cyanuric acid, 36.4 percent for trichloro isocyanuric acid, and 24.6 percent for dichloro isocyanurates.

If these investigations proceed normally, we will make our final determinations by January 24, 1984.

Case History

On June 3, 1983, we received a petition filed by Monsanto Industrial Chemicals Co. In accordance with the filing requirements of section 353.36 of the Commerce Department Regulations, the petitioner alleged that CA&CD from Japan for use in the swimming pool trade are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Critical circumstances were also alleged under section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds to initiate antidumping investigations. We notified the U.S. International Trade Commission (ITC) of our action and initiated investigations on June 20, 1983 (48 FR 29037). On July 18, 1983, the ITC found that there is a reasonable indication that imports of CA&CD are materially injuring a United States industry.

The petition alleged that Shikoku Chemicals Corp. (Shikoku), Nissan Chemical Industries, Ltd. (Nissan), and Nippon Soda Co., Ltd. produce CA&CD for export to the United States. The Department has determined that Shikoku and Nissan are manufacturers or producers which account for 100 percent of the merchandise under investigation exported to the United States during the period of investigation. We are not examining sales by Nippon Soda Co., Ltd. because it appears that it never exported the merchandise under investigation to the United States either prior to or during the period of investigation.

Questionnaires were sent on July 8, 1983, to Shikoku and Nissan and to Mitsubishi Corp. (Mitsubishi), Toyo Menka Kaisha (Toyo Menka), and Sumitomo Shoji Kaisha Ltd. (Sumitomo), trading companies which export the merchandise under investigation to the United States. Responses were received from Shikoku and Nissan on August 25 and September 6, 1983, respectively. Responses were received from Sumitomo, Mitsubishi, and Toyo Menka on August 19, August 25, and September 2, 1983, respectively.

On October 20, 1983, the petitioner alleged that home market sales of CA&CD are being made at less than the cost of production in Japan. Since we did not receive this allegation in time for consideration in our preliminary determinations, we will investigate whether home market sales of CA&CD are being made at prices which are less than their cost of production for our final determinations.

On October 24, 1983, the petitioner submitted various comments regarding the adequacy of the questionnaire responses received in these proceedings and various claims for adjustments made by Nissan. To date, the petitioner has not properly served copies of this submission on respondents as required by § 353.46(a) of the Commerce Regulations. Therefore, we have not considered this submission in reaching our preliminary determinations.

On October 31, 1983, supplemental questionnaires on cost of production were sent to Shikoku and Nissan.

Scope of Investigation

The merchandise covered by these investigations is cyanuric acid (also know as isocyanuric acid) and its chlorinated derivatives (dichloro isocyanurates, i.e. sodium dichloro isocyanurate, potassium dichloro isocyanurate, sodium dichloro isocyanurate dihydrate; and trichloro isocyanuric acid), used in the swimming pool trade. For purposes of these investigations we have categorized the merchandise as cyanuric acid, dichloro isocyanurates, and trichloro isocyanuric acid, which we preliminarily determine are separate classes or kinds of merchandise. We base this determination on the fact that the chemical compositions of these products are distinct. Further, cyanuric acid is a raw material used as the basis for production of the chlorinated derivatives. By comparison, dichloro isocyanurates and trichloro iscocyanuric acid are sued as swimming pool disinfectants. Trichloro isocyanuric acid dissolves more slowly than dichloro isocyanurates, and thus lasts longer. Each of these three products is sold in three basis consistencies: Powder, granular, and tablet.

This merchandise is currently classifiable under item number 425.1050

of the *Tariff Schedules of the United States Annotated* (TSUSA).

We investigated sales of CA&CD by the two manufacturers for the period January 1, 1983, to June 30, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. No comparisons were made sales by Shikoku of sodium dichloro isocyanurate dihydrate because there was insufficient information to make adequate comparisons and the U.S. sales were only 7 percent of total U.S. sales of dichloro isocyanurates by the company.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because sales were made to unrelated Japanese trading firms for export to the United States and the manufacturers knew the destination of the merchandise at the time of sale. We calculated the purchase price for Shikoku and Nissan based on the c.i.f. port of exportation packed price. We made deductions for Japan inland freight and insurance.

Foreign Market Value

We calculated home market prices based on c.i.f. packed prices on sales to unrelated distributors. From these prices we deducted inland freight and insurance. We made circumstance of sale adjustments for differences between U.S. and home market credit costs in accordance with § 353.15 of the Commerce Regulations. We made an adjustment for differences in home market and U.S. packing costs, pursuant to 773(a)(1) of the Act. We also made adjustment, where appropriate, for differences in composition of similar merchandise in accordance with § 353.16 of the Commerce Regulations. For Shikoku we make a circumstance of sale adjustment for advertising as an assumption of a purchasers costs in accordance with § 353.15 of the Commerce Regulations.

Shikoku also claimed circumstance of sale adjustments for rebates, discounts based upon competitive circumstances, salesmen's salaries and traveling expenses, and technical services. Nissan claimed circumstance of sale adjustments for sales commissions, communication expenses, travel expenses, and promotion expenses. We did not allow any of these adjustments, because they do not appear to be directly related to the sales of the merchandise under investigation in accordance with § 353.15 of the Commerce Regulations. We will examine these claims in detail during our verifications of the companies' data and may consider them for our final determinations.

Petitioner suggests that foreign market value calculations be limited to sales in Japan of the merchandise under investigation used in the swimming pool trade, rather than all sales of this merchandise regardless of use. We have not followed petitioner's suggestion. Section 773(a)(1)(A) of the Act provides that foreign market value is the price at which "such or similar merchandise" is sold or offered for sale in the country of exportation. Under section 771(16) of the Act, the preferred definition of such or similar merchandise is "(A) The merchandise which is the subject of an investigation *and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise"* (italics supplied). If section 771(16)(A) cannot be satisfied, section 771(16)(B) provides that the preferred alternate definition of such or similar merchandise is:

Merchandise

(i) Produced in the same country and by the same person as the merchandise which is the subject of the investigation;

(ii) Like that merchandise in component material or materials and in the purposes for which used; and

(iii) Approximately equal in commercial value to that merchandise.

We preliminarily determine that the CA&CD produced or manufactured by Shikoku and Nissan for sale in the home market, to either the swimming pool trade or elsewhere, is identical in physical characteristics to all merchandise under investigation, except Nissan's U.S. exports of several grades of cyanuric acid in granular form. Therefore, except for those Nissan granular sales, we made home market comparisons on the basis of the section 771(16)(A) definition of such or similar merchandise.

Regarding Nissan's U.S. exports of several grades of granular cyanuric acid, we adjusted Nissan's home market price for powdered cyanuric acid because Nissan had no home market sales of the granular grades during the period of investigation. These adjustments, made pursuant to § 353.16 of the Commerce Regulations, reflect additional manufacturing costs incurred in coverting Nissan's powdered cyanuric acid into the various granular grades exported to the United States. We preliminary determined that the Nissan home market price for powdered cyanuric acid (based on all home market sales, regardless of whether they are sold to the swimming pool trade or elsewhere) is the appropriate basis for making the granular adjustments because the section 771(16)(B) criteria for such or similar merchandise are satisfied. The powdered merchandise sold in the home market and the granular grades exported to the United States are: (1) Both produced or manufactured in Japan by Nissan, (2) have similar or identical component materials and have the same uses (i.e. to make the chlorinated derivatives), and (3) have approximately equal commercial value.

Therefore, in accordance with section 773(a) of the Act, we calculated foreign market value based on all Nissan and Shikoku home market sales of CA&CD, regardless of the industry to which sold.

Negative Determination of Critical Circumstances

Petitioner alleged that imports of CA&CD from Japan present "critical circumstances" within the meaning of section 733(e) of the Act. Critical circumstances exist if the Department has a reasonable basis to believe or suspect that: (1)(a) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (2) there have been massive imports of the merchandise under investigation over a relatively short period. Petitioner alleged that the importers knew or should have known the exporters were selling at less than fair value and that there have been massive imports of the subject products over a relatively short period of time.

In determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: Recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determination of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over several years (January 1980–June 1983); and whether the pattern of imports over that 3½ year period may be explained by seasonal swings. Based upon these factors, we preliminarily determine that imports of the products covered by these

investigations do not appear massive over a relatively short period. Therefore, we preliminarily determine that critical circumstances do not exist.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of entries of CA&CD from Japan for use in the swimming pool trade (except cyanuric acid produced by Nissan) which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to these investigations exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers, producers, and exporters	Weighted-average margin percentage
Nissan:	
Cyanuric Acid	0
Trichloro Isocyanuric Acid	8.6
Dichloro Isocyanurates	32.6
Shikoku:	
Cyanuric Acid	17.6
Trichloro Isocyanuric Acid	34.5
Dichloro Isocyanurates	40.3
All other manufacturers, producers, and exporters:	
Cyanuric Acid	4.8
Trichloro Isocyanuric Acid	24.6
Dichloro Isocyanurates	36.4

Verification

In accordance with section 776(a) of the Act, we will verify the data used in reaching our final determinations in these investigations.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on December 20, 1983, at the United States Department of Commerce, Room 3092, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by December 13, 1983. Oral Presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46 within 30 days of publication of this notice, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

November 10, 1983.

[FR Doc 83-3112 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-DS-M

Industry Policy Advisory Committee for Trade Policy Matters; Open Meeting

A meeting of the Industry Policy Advisory Committee for Trade Policy Matters (IPAC) will be held December 2 and 3, 1983, at the Saddlebrook Conference Center, State Road 54, Wesley Chapel, Florida 34249. The Committee provides advice to U.S. policymakers with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the administration of the trade policy of the United States.

Agenda: December 2 and 3: 9 a.m. to 5 p.m.—discussion of industrial policy; drafting position paper; issuing statement.

The meeting will be open to the public with a limited number of seats available. For further information, contact Clare Soponis at AC 202 377-3268.

Dated: November 14, 1983.

James R. Phillips,

Acting Deputy Assistant Secretary for Industry Projects.

[FR Doc. 83-31200 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of General Permit; Volcano Isle Wholesale Fish Co. of Hawaii

A general permit was issued on November 7, 1983, to the Volcano Isle Wholesale Fish Company of Hawaii, to take by harassment marine mammals incidental to commercial fishing operations under Category 5: "Other Gear," pursuant to 50 CFR 216.24.

The general permit allows the taking of an undetermined number of bottlenose dolphins, rough-toothed dolphins, and false killer whales annually by certificate holders operating under this permit within the U.S. fishery conservation zone around the State of Hawaii. The permit is valid until December 31, 1988.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: November 14, 1983.

John V. Byrne,

Administrator, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 83-31151 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for General Permit; Pacific Coast Federation of Fishermen's Associations

Notice is hereby given that the Pacific Coast Federation of Fishermen's Associations of Sausalito, California has applied for general permits in the following categories:

Category 1: Towed or Dragged Gear
Category 3: Encircling Gear, Purse Seining not Involving the Intentional Taking of Marine Mammals
Category 4: Stationary Gear
Category 5: Other Gear

To take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone off California, Washington and Oregon as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

The applications request the following levels of take:

Category I—20 California sea lions, 10 northern fur seals, 10 harbor seals, and 10 elephant seals

Category III—100 California sea lions, 25 harbor seals, and 60 small cetaceans (pilot whales, harbor and Dall's porpoise and common, white-sided and bottlenosed dolphins)

Category IV—15 northern sea lions and 5 harbor seals

Category V—1,700 California sea lions, 10 northern fur seals, 700 harbor seals, 50 elephant seals, 50 northern sea lions and 45 small cetaceans (harbor porpoise, Dall's porpoise, pilot whales and white-sided dolphins)

The applications are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Interested parties may submit written views on these applications within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: November 14, 1983.

John V. Byrne,

Administrator, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 83-31152 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), has established a Scientific and Statistical Committee which will meet to discuss data needs for fishery management plans; recommendations relative to squid, mackerel and butterfish quotas for 1984-85, as well as other fishery management matters.

DATE: The public meeting will convene on Wednesday, December 14, 1983, at approximately 10 a.m., and will adjourn at approximately 4 p.m. The meeting agenda may be rearranged or changed depending upon progress on the agenda. The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 — Federal Building, 300 South New Street, Dover, Delaware 19901.

Dated: November 15, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-31127 Filed 11-17-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE

DEPARTMENT OF LABOR

Steel Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976), as amended, notice is hereby given that the Steel Advisory Committee, established on November 7, 1983 (48 FR 51165 (1983), will hold its initial meeting on December 6, 1983 at 9:30 a.m.—4:00 p.m. The meeting will be held in Room 4830, U.S. Department of Commerce, Herbert Hoover Building, 14th & Constitution Avenue, NW., Washington, D.C. Meetings of subcommittees established by the Committee in its initial meeting will be held on the same date, at the same location as the Committee's meeting, between 1:00 p.m.—3:00 p.m.

The Committee, consisting of 24 members appointed, jointly, by the Secretaries of Commerce and Labor from among management and organized labor of the domestic steel production industry as well as government was established as a co-departmental advisory committee on November 7, 1983. The Committee will address common problems affecting the domestic steel production industry and make recommendations to the Cabinet Council on Commerce and Trade for appropriate action. The Secretaries of Commerce and Labor will serve as Co-chair of the Committee.

The agenda for this initial meeting emphasizes Committee/Subcommittee organization, membership and preliminary work plan. For further information regarding the Committee's agenda, objectives or structure, please contact F. T. Knickerbocker, Executive Director, Steel Advisory Committee (acting), whose mailing address is: Room 4836, U.S. Department of Commerce, 14th & Constitution Avenue NW., Washington, D.C. 20230; or phone (202) 377-2405. With regard to general questions relating to the administration of the Committee as required by the Federal Advisory Committee Act, please contact Yvonne Barnes, Departmental Committee Management Analyst, (202) 377-4217.

The public is welcome to this initial meeting and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Executive Director of the Committee in advance of the meeting. The Chair retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

F. T. Knickerbocker,

Executive Director (acting) Steel Advisory Committee.

Dated: November 17, 1983.

[FR Doc. 83-31335 Filed 11-17-83; 11:30 am]

BILLING CODE 3510-BP-M; 4510-23-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Thursday, 15 December 1983, Plaza West, Rosslyn, VA

The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a special study on chemical and biological warfare.

Dated: November 15, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-31081 Filed 11-17-83; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; Deletion of a Notice for a System of Records

AGENCY: Defense Audiovisual Agency (DAVA), DOD.

ACTION: Deletion of a notice for a system of records.

SUMMARY: The Defense Audiovisual Agency proposes to delete the notice for a system of records subject to the Privacy Act of 1974. The system to be

deleted is identified as system DAVA P102-01, entitled: "DAVA Office General Personnel Files." The system is being deleted because it is no longer subject to the Privacy Act.

DATES: This action will be effective on December 19, 1983.

ADDRESS: Send comments to: William C. Goforth, Lt. Col., USAF, Staff Executive (Attorney), Defense Privacy Board % OSD Mail Room, Room: 3A-948, the Pentagon, Washington, DC 20301. Telephone (202) 694-3027.

FOR FURTHER INFORMATION CONTACT: Randy Gully, Chief, Administrative Services Division, Directorate for Administration, Headquarters, Defense Audiovisual Agency, Norton AFB, CA 92409, telephone: (714) 382-2096..

SUPPLEMENTARY INFORMATION: The Defense Audiovisual Agency system notices for systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a) appeared in the Federal Register at 48 FR 36507, August 11, 1983.

Dated: November 15, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-31082 Filed 11-17-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

[SPKED-W]

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement; Sacramento River Bank Protection Project, California

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a draft supplement to the final environmental impact statement.

SUMMARY: 1. *Proposed Action:* The Sacramento River Bank Protection Project is a continuing construction project authorized by the 1960 Flood Control Act. The Act authorized construction of 430,000 linear feet of bank protection works to protect the integrity of the Sacramento River Flood Control Project levees. Construction for this First Phase work was completed in 1975. In 1974, Congress authorized a Second Phase bank protection program limited to a maximum length of 405,000 linear feet. Construction has been completed on 182,000 linear feet and 223,000 linear feet of bank protection work remains to be constructed under this authorization. The original project area extends along the Sacramento River from Collinsville (River Mile 0) to just beyond the Ord Ferry Bridge (River Mile 184) and its tributaries. In 1982, Congress authorized use of bank protection funds for bank erosion control works along the Sacramento River from the end of the project levees (River Mile 184.0) to Chico Landing (River Mile 194.0). This supplement describes the impacts associated with expanding of the project area upstream to Chico Landing.

Current erosion in this new channel reach could cause river channel changes which would cause flows in excess of design capacity to enter the Sacramento River levee system resulting in eventual levee failures. Consequently, these excess flows threaten the integrity of the entire Sacramento River levee system.

Proposed construction of this reach would be to provide up to 70,000 linear feet of bank erosion control works to prevent these potentially catastrophic river changes. Bank erosion control works will consist of reshaping the bank slope with cut and/or fill and adding rock armor for erosion protection. Although Congress authorized construction of bank erosion control works in this area, it did not authorize an increase in the 405,000 linear feet limitation for the entire project. Therefore, all work done in this area will preclude the same amount of work from being done within the existing levee system of the Sacramento River Flood Control Project.

2. *Alternatives.*—The only current alternative to bank stabilization is no action. The current authorization includes provisions, however, to prevent environmental losses or to mitigate unavoidable losses concurrently with project construction. Up to 10 percent of the total cost of the Second Phase work was allowed for features such as acquisition of environmental easements on and adjacent to project works, planting vegetation, and operation of construction techniques to preserve environmental values.

3. *Scoping of DSEIS.*—Close coordination will be maintained with local agencies, other Federal agencies, and interested organizations and individuals. Analyses of potential impacts will be assisted by this process. Previous coordination studies have identified the following as potentially significant issues: Impacts to wildlife resources along the Sacramento River and in Butte Basin, including riparian wildlife habitat and waterfowl habitat; impacts to anadromous fish resources in the Sacramento River; and impacts to cultural resources. Cultural resources will be evaluated site by site prior to construction of each contract unit of work.

4. *Scoping Meetings.*—Environmental concerns related to potential future work have been identified for adjacent areas during previous EIS coordination. A formal public scoping meeting will not be held, but one or more informal meetings may be held with interested agencies, organizations, and individuals to obtain any additional views of the public. Significant resources identified to date include stands of riparian vegetation and fish and wildlife resources. Participation is invited in the scoping and review of environmental concerns by all interested Federal, State, and local agencies, and interested organizations and individuals.

5. *Water Quality Evaluation and State Water Quality Certification.*—A 404(b)(1) evaluation is being completed and state water quality certification will be obtained for the remaining work pursuant to Section 401 of the Clean Water Act.

6. *Estimated Date of DSEIS.*—The draft supplement is scheduled for availability to the public the first quarter of 1984.

ADDRESS: Questions about the proposed action and draft supplement can be answered by: Mr. Robert Verkade, Environmental Planning Section, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440-3120 (FTS 448-3120).

Dated: November 2, 1983.

Arthur E. Willians,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-31115 Filed 11-17-83; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Public Service Education Fellowships Program; Application Notice for Fiscal Year 1984

Applications from institutions of higher education for grants to make fellowship awards are invited under the Public Service Education Fellowships Program.

Authority for this program is contained in Part B of Title IX of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134d-1134g).

The Public Service Education Fellowships Program provides grants to institutions of higher education to support fellowships for graduate and professional study to students who demonstrate financial need and who plan to pursue a career in public service.

Public Service fellowships are intended to provide graduate and professional educational opportunities for qualified students, particularly minorities and women who have traditionally been underrepresented in these areas.

Closing Date for Transmittal of Applications: An application for a grant must be postmarked or hand delivered by January 16, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.094, 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 lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an applicant 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 Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., 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.

Available Funds: The fiscal year 1984 Education Department Appropriation Act (Pub. L. 98-139) authorizes the funding level of $2,000,000 for this program for fiscal year 1984. The Secretary will give first priority to providing continuation support for approximately 100 fellows in good academic standing in their second year of study. In addition, an estimated 140 new fellowships will be supported. Congress, in the Appropriation Act, waived the minimum $75,000 fellowship award to each institution.

Program Information: Each institutional applicant applying for new fellowships under this Application Notice will be ranked according to the selection criteria set out as 34 CFR 649.13 governing the Public Service Education Fellowships Program.

The Secretary makes only one-year grant awards. Subject to conditions in the regulations and contingent on the appropriation of funds in subsequent years, any continuation support needed for students to complete degree programs will be provided.

The Department of Education is not bound to a specific number of grants or to the amount of any grant unless specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by November 28, 1983 and may be obtained by writing to the Graduate Programs Branch, Department of Education, (Room 3044, ROB-3), 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 packages.

The Secretary strongly urges that the narrative portion of a Public Service Education Fellowships Program grant application not exceed 15 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) Regulations governing the Public Service Education Fellowships Program (34 CFR Part 649) which were published in the **Federal Register** on November 9, 1981 (46 FR 55255).

(2) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: For further information contact Dr. Louis J. Venuto, Graduate Programs Branch, U.S. Department of Education, (Room 3044, ROB-3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2347.

(20 U.S.C. 1134d-1134g)

(Catalog of Federal Domestic Assistance No. 84.094, Graduate and Professional Study/ Public Service Education Fellowships Program)

Dated: November 14, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-31097 Filed 11-17-83; 8:45 am]

BILLING CODE 4000-01-M

Advisory Council on Education Statistics

AGENCY: Advisory Council on Education Statistics.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 15 and 16, 1983.

ADDRESS: 1200 19th Street NW., Room 823, Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Robena S. Gore, Executive Director, 1200 19th Street NW., (Brown Building) Room 723-B, Washington, D.C. 20208. Telephone—(202) 254-8227.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93-380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

Update on *Condition of Education* changes to reflect the condition of education as reported in "A Nation At Risk"

Update on the National Commission on Excellence in Education

Report on the National Forum on Excellence in Education

Report on review of quality control in statistical agencies by a representative of the National Academy of Sciences.

Such old business and new business as the chairman or membership may put before the Council.

Records are kept of all Council proceedings, and are available for

public inspection at the office of the Executive Director, Advisory Council on Education Statistics, 1200 19th Street NW., (Brown Building) Room 723-B, Washington, D.C. 20208.

Dated: November 15, 1983.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 83-31117 Filed 11-17-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Proposed Subsequent Arrangement; Government of Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended, and 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 agreements involves approval for the retransfer of approximately 900 grams of uranium enriched to about 93 percent in the isotope U-235, for use as fuel in the safe low power critical experiment reactor (Slowpoke reactor) at the University of the West Indies in Kingston, Jamaica. This proposed retransfer is to be approved pursuant to an IAEA project and supply agreement.

In accordance with section 131 of the Atomic Energy of 1954, as amended, it has been determined that the approval of this subsequent arrangement 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.

Dated: November 14, 1983.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-31077 Filed 11-17-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity will meet in December 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity available for use. The Subcommittee was established to assemble information, and report to the Committee on matters relating to petroleum inventories and petroleum product storage capacities. The Secondary and Tertiary Task Group of the Subcommittee was established to develop a methodology to estimate more precisely the storage capacity of the secondary and tertiary segments of the petroleum distribution system.

The Secondary and Tertiary Storage Task Group will hold its meeting on Thursday and Friday, December 8-9, 1983, starting at 9:00 a.m., in the St. Louis Chartres Room of the Royal Orleans Hotel, 621 St. Louis Street, New Orleans, Louisiana.

The tentative agenda for the Task Group meeting follows.

1. Review the progress of the secondary petroleum distribution system survey.
2. Review individual Task Group members' drafts on the inventory and storage capacity in the secondary system and tertiary segment.
3. Discuss coordination of the Secondary and Tertiary Task Group draft with the interim report.
4. Review time schedule for completion of the Task Group assignment.
5. Discuss any other matters pertinent to the overall assignment of the Task Group.
6. Public Comment (10 minute rule).

The meeting is open to the public. The Chairman of the Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building—Room 2H-058, Washington, D.C., 202/252-6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E-190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 10, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83-31076 Filed 11-17-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51492 TSH-FRL 2468-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of ten PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-187, 84-188 and 84-189—January 25, 1984.

PMN 84-190—January 28, 1984.

PMN 84-191, 84-192, 84-193, 84-194, 84-195 and 84-196—January 29, 1984.

Written comments by:

PMN 84-187, 84-188 and 84-189—December 26, 1983.

PMN 84–190—December 29, 1983.

PMN 84–191, 84–192, 84–193, 84–194, 84–195 and 84–196—December 30, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51492]" 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 84–187

Manufacturer. GTE Products Corporation.

Chemical. (S) Yttrium aluminum gallium oxide.

Use/Production. (S) Industrial and commercial luminescent chemical used in display screens. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers.

Environmental Release/Disposal. 0.0001 kg/batch released to air.

PMN 84–188

Manufacturer. Rhone-Poulenc Inc.

Chemical. (G) Aryl alkyl alkanedione.

Use/Production. (S) Co-stabilizer with "primary" metallic stabilizers such as Ba/Zn in compounding polyvinyl chloride plastics. Reduces color formation in PVC products during thermal processing and provides a high degree of transparency.

Toxicity Data. Acute oral: 4,885 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Ames Test: Non-mutagenic; LC_{50} 48 hr (Fish)— 2mg/l; LC_{50} 24 hr (Daphnia magna) 2 mg/l; COD—2.34 mg/O.

Exposure. No data submitted.

Environmental Release/Disposal. No release. Disposal by incineration and landfill.

PMN 84–189

Manufacturer. Confidential.

Chemical. (G) Aminoplast resin.

Use/Production. (G) Industrial coating polymer with a dispersive use. Prod. range: 165,000–1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 50 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 3–15 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–190

Manufacturer. Milliken and Company.

Chemical. (G) Chromophore substituted polyoxyalkylene.

Use/Production. (G) Colorant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–191

Importer. Huels Corporation.

Chemical. (G) Polymer of laurolactam, caprolactam, alknedioic acid and alkanediamine.

Use/Production. (S) Industrial hot-melt adhesive. Import range: 10,000–60,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–192

Importer. Huels Corporation.

Chemical. (G) Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine.

Use/Import. (S) Industrial hot-melt adhesive. Import range: 10,000–60,000 kg/yr.

Toxicity Data. Acute oral: 6,310 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–193

Manufacturer. Confidential.

Chemical. (G) Functional copolymer of styrene with acrylate type monomers.

Use/Production. (G) Incorporated into an industrial coating product having a dispersive use. Prod. range: 2,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 47 workers, up to 8 hrs/da, up to 51 da/yr.

Environmental Release/Disposal. 3–15 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–194

Manufacturer. Confidential.

Chemical. (G) Diisocyanate polymers with polyether polyols.

Use/Production. (S) A moisture curable polymer for sealant formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 10 workers.

Environmental Release/Disposal. Confidential.

PMN 84–195

Manufacturer. Confidential.

Chemical. (S) Diisocyanate polymers with polyether polyols.

Use/Production. (G) A moisture curable polymer for sealant formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 10 workers.

Environmental Release/Disposal. Confidential.

PMN 84–196

Manufacturer. Confidential.

Chemical. (G) Diisocyanate polymers with polyether polyols.

Use/Production. (S) A moisture curable polymer for sealant formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 10 workers.

Environmental Release/Disposal. Confidential.

Dated: November 4, 1983.

Linda A. Travers,

Acting Director Information Management Division.

[FR Doc. 83–30538 Filed 11–17–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59138 BH–FRL 2468–3]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register

of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by: December 5, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59138]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TMWE 84-7

Close of Review Period. December 16, 1983.

Manufacturer. Confidential.

Chemical. (G) Ammonium salts of substituted alkyl phosphoric acid.

Use/Production. Confidential. Prod. range: 750 kg/yr.

Toxicity Data. No data on the TME substance submitted.

Exposure. Manufacture: a total of 6 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No data submitted.

Dated: November 4, 1983.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 83-30539 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59139; TSH-FRL 2472-6]

Premanufacture Exemption Applications; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: December 5, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59139]" and the specific TME number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TME 84-8

Close of Review Period. December 22, 1983.

Importer. Metacomet Incorporated.

Chemical. (G) Substituted tetrazole.

Use/Import. (S) Industrial photographic ingredient. Import range: 1-10 kg/yr maximum.

Toxicity Data. No data on the TME substance submitted.

Environmental Release/Disposal. No data submitted.

TME 84-9

Close of Review Period. December 22, 1983.

Importer. Metacomet Incorporated.

Chemical. (G) Substituted benzimidazole/benzoxazol.

Use/Import. (S) Sensitizer for photographic materials. Import range: 1-10 kg/yr maximum.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

TME 84-10

Close of Review Period. December 23, 1983.

Manufacturer. American Hoechst Corporation.

Chemical. (S) Benzenesulfonic acid, 2,4,6-trimethyl, sodium salt.

Use/Production. (S) Diazo photoresist. Prod. range: Less than 1 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: A total of 1 worker, up to < ½ hr/da.

Environmental Release/Disposal. Less than 5 kg released.

Dated: November 10, 1983.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 83-31103 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51493 TSH-FRC 2472-5]

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 the final PMN rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of eight PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-197 and 84-198; February 1, 1984

PMN 84-199 and 84-200; February 4, 1984

PMN 84-201, 84-202 and 84-203; February 5, 1984

PMN 84-204; February 6, 1984

Written comments by:

PMN 84-197 and 84-198; January 2, 1984

PMN 84-199 and 84-200; January 5, 1984

PMN 84-201, 84-202 and 84-203; January 6, 1984

PMN 84-204; January 7, 1984

ADDRESS: Written comments, identified by the document control number "[OPTS-51493]" 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 Street, SW., Washington, D.C. 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 Street, SW., Washington, D.C. 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 84-197

Manufacturer. Emery Industries.

Chemical. (S) Carboxylic acids, C_6-C_{18} mono and C_6-C_{18} di-, polymers with neopentyl glycol and propylene glycol.

Use/Production. (S) Industrial plasticizer polyvinyl chloride resin. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 5 workers, up to 4 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

PMN 84-198

Manufacturer. Confidential.

Chemical. (G) 2-ethyl-2(hydroxymethyl)-1,3-propanediol; benzoic acid; substituted propandiol; 1,3-benzenedicarboxylic acid; cyclic oxo-benzene carboxylic acid; mixed vegetable oils and polymer.

Use/Production. (S) Raw material for coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential

PMN 84-199

Manufacturer. Amchem Products Division of Henkel Corporation.

Chemical. (S) Acriflavine hydrochloride.

Use/Production. (S) Industrial inhibitor and brightener in electroless copper coating of steel. Prod. range: 6-30 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Inhalation, a total of 4 workers, up to 5 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 0.00001 kg/day released to air. Disposal by POTW.

PMN 84-200

Manufacturer. Confidential.

Chemical. (S) 4,4'-(1,2-ethanediyldiimino) bis-3-pentene-2-one.

Use/Production. (G) Commercial coating component for finished article. Prod. range: Confidential.

Toxicity Data. Acute oral: <5,000 mg/kg and >2,000mg/kg; Irritation: Skin—Minimal, Eye—Mild; Ames Test: Not mutagenic.

Exposure. Manufacture: Dermal, a total of 21 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Released to air, water and land. Disposal by POTW and incineration.

PMN 84-201

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted dithiadiphosphetane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >3,200 mg/kg; Acute aquatic effects ->1 mg/L; Irritation: Skin—Strong; COD—1.82 g/g; Secondary waste treatment compatibility test—Low; Skin sensitization: Low.

Exposure. Manufacture and use: Dermal, a total of 30 workers, up to 1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. Confidential.

PMN 84-202

Manufacturer. Milliken and Company.

Chemical. (G) Chromophore substituted polyoxyalkylene.

Use/Production. (G) Colorant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-203

Manufacturer. Milliken and Company.

Chemical. (G) Trisubstituted amino thiophene.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84-204

Manufacturer. Confidential.

Chemical. (G) A derivitized olefinic polymer.

Use/Production. (G) Dispersant. Prod. range: 340,500-1,816,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 24 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. 50-400 lbs/batch released to land. Disposal by POTW, incineration and approved landfill.

Dated: November 10, 1983.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 83-31104 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59136A TSH-FRL 2473-6]

Approval of Test Marketing Exemptions, Certain Chemicals;

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-82, TM-83-83, and TM-83-84, three applications for test marketing exemptions (TME), under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: November 9, 1983.

FOR FURTHER INFORMATION CONTACT: June Thompson, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, D.C. 20460; (202-382-3737).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must

not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83–82, TME 83–83, TME 83–84

Date of Receipt: September 29, 1983.

Notice of Receipt: October 7, 1983 (48 FR 45841).

Applicant: Confidential.

Chemical:

TME 83–82 (Generic) Substituted phosphonium chloride.

TME 83–83 (Generic) Substituted phosphonium borate.

TME 83–84 (Generic) Substituted phosphonium chloride, cadmium complex.

Use: Components of rubber compounds.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker exposure: Up to 80 workers may handle the rubber compounds containing the TME substances. However, there will be no direct exposure to the TME substances since the new chemicals will be embedded in the rubber compounds when imported.

The TME substances are not expected to volatilize or to migrate to the surface of the rubber.

Test Marketing Period: 120 days.

Commencing on: November 9, 1983.

Risk Assessment: The TME substances may have the potential to elicit adverse health effects, including eye and skin irritation.

However, under the proposed conditions of import, processing and use, there will be no direct exposure to the TME substances. Environmental releases during processing and use are also expected to be low. Therefore, the Agency finds that the TME substances will not present an unreasonable risk to human health or to the environment during test marketing, under the conditions specified in the application.

Public Comments: None.

Dated: November 9, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-31000 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44004; TSH-FRL 2473-5]

Formaldehyde; Reconsideration; Solicitation of Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA seeks from the public any views and arguments relevant to determining whether the chemical formaldehyde should be given priority consideration under section 4(f) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603(f). In view of the extensive public controversy surrounding this issue, EPA has rescinded all previous EPA decisions respecting whether section 4(f) of TSCA applies to formaldehyde.

DATES: Comments must be submitted on or before January 17, 1984.

ADDRESS: Information relevant to this reconsideration should be submitted in triplicate to: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M Street, SW., Washington, D.C. 20460.

Comments should include the document control number OPTS 44004. Comments received on this notice will be available for review and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107 at the address given above.

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 Street, SW., Washington, D.C. 20460, toll-free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION: In February 1982, EPA decided that section 4(f) of TSCA did not apply to formaldehyde. However, this decision has generated considerable controversy, and forms the basis for a lawsuit by the Natural Resources Defense Council (NRDC) and the American Public Health Association (APHA) (*NRDC* v. *Ruckelshaus* No. 83–2039, filed in the United States District Court for the District of Columbia, July 18, 1983). The NRDC suit is critical of the Agency's formaldehyde decision itself, the relationship between that decision and the Agency's cancer policy, and the process by which the decision was reached.

In view of the public controversy concerning the process and policy issues associated with the Agency's previous section 4(f) decision on formaldehyde, EPA has rescinded its February 1982 decision on this topic and is asking the public to submit views, arguments and new data relevant to determining whether formaldehyde should be given priority consideration under section 4(f) of TSCA. EPA will consider the comments received as a result of this notice and expects to reach a new decision on this matter by May 18, 1984.

I. TSCA Section 4(f)

Under section 4(f) of TSCA, if EPA receives information showing a chemical may present a significant risk to human health from certain specified effects, the Agency must decide whether to initiate regulatory action on that chemical within 180 days (or 270 days if the Agency finds good cause for an extension). Section 4(f) provides that, if EPA receives test data or other information which indicates to the Administrator that there may be a reasonable basis to conclude that a chemical substance or mixture presents or will present a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall, within the 180-day period beginning on the date of the receipt of such data or information, initiate appropriate action under section 5, 6, or 7 to prevent or reduce to a sufficient extent such risk or publish in the **Federal Register** a finding that such risk is not unreasonable. For good cause shown the Administrator may extend such period for an additional period of not more than 90 days.

Thus, If EPA makes the section 4(f) threshold determination that a chemical may present a "significant risk of serious or widespread harm" to humans from cancer, gene mutations or birth defects, the Agency is under a statutory obligation to decide quickly whether to initiate regulatory actions. The determination that a chemical problem should receive section 4(f) priority involves an examination of a chemical's potential to cause any of the three designated effects, the likelihood of harmful exposure levels, and the number of persons exposed. Both the degree of harm expected and the strength of the evidence indicating that such harm may occur must be considered.

If EPA does not find section 4(f) applicable in a given case, this does not necessarily indicate a decision by the Agency not to pursue regulatory consideration; it means only that EPA does not consider the currently available information to meet the statutory standards for triggering

expedited consideration under section 4(f) of TSCA.

II. EPA's Previous Decision on Formaldehyde

In November 1979, EPA received information that the interim results of a 24-month rat bioassay conducted by the Chemical Industry Institute of Toxicology (CIIT) showed that a number of the rats had developed nasal cancer after inhalation of formaldehyde.

In November 1980, the Federal Panel on Formaldehyde, formed by several Federal agencies under the aegis of the National Toxicology Program, published a report finding that the bioassay methodology was consistent with accepted testing standards. Using the data available through the 18-month point of the CIIT study, the Federal Panel concluded that "formaldehyde should be presumed to pose a risk of cancer to humans." Also in November 1980, CIIT presented the preliminary results of the full study. CIIT pathologists reported finding statistically significant increases, as compared with controls, in the incidence of malignant tumors in rats exposed to formaldehyde vapor at the highest of the three levels they tested.

In February 1982, based on its evaluation of the toxicity and exposure data on formaldehyde then available, EPA decided that formaldehyde did not meet the statutory criteria for priority designation under section 4(f) of TSCA. The reasoning that formed the basis for this decision was explained in a memorandum dated February 10, 1982, signed by the then Assistant Administrator for Pesticides and Toxic Substances.

III. Why EPA Will Reexamine This Decision

The 1982 decision that section 4(f) did not apply to formaldehyde generated considerable controversy. EPA was criticized for meetings held on formaldehyde's toxicity, exposure and resultant risks. These meetings, convened by the then Deputy Administrator of EPA in the spring and summer of 1981, were held with EPA staff, industry representatives, and selected scientists from other institutions. Concerns were also expressed that in the memorandum of February 10, 1982, EPA may have deviated from previous Agency policy on cancer risk assessment. In July 1983, the Natural Resources Defence Council (NRDC) and the American Public Health Association (APHA) filed a lawsuit regarding the 1982 decision.

In view of the extensive public controversy surrounding the issue, EPA believes that it should revisit the issue of whether section 4(f) applies to formaldehyde. EPA has rescinded all previous decisions respecting the applicability of section 4(f) of TSCA to formaldehyde and will make a new determination after evaluating currently available information, including that provided by the public in response to this notice. In making this assessment, the Agency will apply the principles stated in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessments of Suspected Carcinogens, published in the **Federal Register** of May 25, 1976 [41 FR 21402].

To assist its ongoing evaluation of formaldehyde's risk, the Agency sponsored a Science Consensus Workship on formaldehyde on October 3 to 6, 1983. The workshop was organized by the National Center for Toxicological Research. EPA plans to consider the findings of that workshop in making this decision about section 4(f) to the extent these findings are available in the time frame EPA has established for this decision.

EPA does not believe as a general matter that section 4(f) requires that EPA obtain public comment before deciding whether the threshold criteria are met, nor does the Agency normally plan on soliciting such comment. However, EPA believes public comment is important in this case in view of criticism that EPA's present record is biased. EPA wants to ensure that it has an opportunity to consider a range of views on the available data and to reassure the public that the Agency is applying sound scientific principles through an unbiased process.

IV. Procedures for Public Comment

EPA has established a publicly available file on this matter that includes a very large number of documents related to formaldehyde. Because of the size of this file, EPA asks that in presenting arguments and opinions, commenters clearly identify any documents in the file that they wish to be considered part of their comments.

This file is located in Rm. E-107 at the address given above. The files are available for review and copying. All comments received by EPA in response to this notice and other new information will be added to this file and will be available for public review.

Dated: November 10, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-31091 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2472-8]

Availability of Environmental Impact Statements Filed November 7 Through November 10, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or (202) 382-5076.

EIS No. 830593, Draft, COE, TX, Cypress Creek Watershed Flood Control, Harris and Waller Counties, Due: Apr. 2, 1984.
EIS No. 830594, Final, COE, MO, Missouri River Levee Unit L-385 Flood Control, Platte and Clay Cos., Due: Dec. 19, 1983.
EIS No. 830595, Draft, COE, SEV, MS, LA Lake Pontchartrain Basin/Mississippi Sound Freshwater Diversion, Due: Jan. 3, 1984.
EIS No. 830596, Draft, EPA, SEV, NJ, NY New Jersey/Long Island Inlets, Disposal Site, Designation, Due: Jan. 2, 1984.
EIS No. 830597, Final, USA, PAC, Johnson Atoll Chemical Agent Disposal System, Johnson Island, Due: Dec. 19 1983.
EIS No. 830598, Draft, NOA, PAC, North Pacific Fur Seals Conservation, Convention Extension, Due: Jan. 6, 1984.
EIS No. 830599, Report, COE, MI, Diked Disposal Area Reconstruction, Dickinson Island, St. Clair Co.
EIS No. 830600, FSuppl, MMS, AK, St. George Basin OCS Oil/Gas Sale No. 70, Leasing, Due: Dec. 19, 1983.
EIS No. 830601, Final, HUD, FL, Tampa Palms Development, Mortgage Insurance, Hillsborough County, Due: Jan. 19, 1983.
EIS No. 830602, Draft, BLM, UT, Sunnyside Combined Hydrocarbon Lease Conversion, Emery County, Due: Jan. 6, 1984.

Dated: November 15, 1983.

William Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 83-31150 Filed 11-17-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL 2465-4]

Availability of Environmental Impact Statements Filed October 24 Through October 28, 1983 Pursuant to 40 CFR 1506.9

Correction

In FR Doc. 83-29980 appearing on page 50935 in the issue of Friday, November 4, 1983, make the following corrections.

1. On page 50935, first column, in EIS No. 830580, third line, "Dec. 21, 1983" should have read "Dec. 19, 1983".

2. On the same page, second column, in EIS No. 830510, fourth line, "Nov. 14, 1983" should have read "Nov. 18, 1983.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Main Committee Meeting

November 9, 1983.

December 8–9, 1983

Chairman: Stephen E. Doyle (916) 355–6941
Time: 9:30 A.M.–4:00 P.M. (both days)
Location: Federal Communications Commission, 1200 19th Street, NW., Room 330, Washington, D.C. 20554
Agenda:
(1) Consideration of Minutes of October 28, 1983 Meeting
(2) Consideration of Draft First Report

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc 83-31068 Filed 11-17-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee Radio Communications Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Radio Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Friday, December 2, 1983. The Subcommittee will meet at 9:30 A.M. in the Federal Communications Commission's Training Room 330 in the "Brown Building" located at 1200—19th Street, NW., Washington, D.C.

Purpose: To consider emergency communications matters
Agenda:

1. Opening remarks by Chairman
2. Discussion with Defense Commissioner regarding FCC role in emergency communications planning
3. Review of Subcommittee activities in relation to Charter
4. Determination of recommendations to be presented to the Long Range Planning Committee.
5. New Business
6. 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 83-31067 Filed 11-17-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Income and Other Accounts Subcommittee scheduled for Tuesday and Wednesday, November 29 and 30, 1983. The meeting will begin on November 29 at 9:30 a.m. in the offices of GTE Service Corporation, Suite 900, 1120 Connecticut Avenue, NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation or Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659–3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc 83-31070 Filed 11-17-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Separations and Costing Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Separations and Costing Subcommittee scheduled for Thursday, December 1, 1983 and Friday, December 2, 1983. The meeting will begin at 10:00 a.m., and will be held at One Western Union International Plaza (Behind 17 Battery Place), New York, New York, 10004. The meetings will be open to the public. The agenda is as follows:

I. Review of Minutes of Previous Meeting.
II. General Administrative Matters.
III. Proposed Revision of Section Two of the Separations Manual to Conform It of the New USOA.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-31069 Filed 11-17-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1433]

Petitions for Reconsideration of Actions in Rule Making Proceedings

November 10, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: An Inquiry into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System. (BC Docket No. 78–253)

Filed by: David E. Hilliard & Katherine M. Holden, Attorneys for The State of Alaska on 10–19–83.

Subject: Hours of Operation of Daytime-Only AM Broadcast Stations. (BC Docket No. 82–538)

Filed by: Gregg P. Skall & Dana G. Boyd, Attorneys for Daytime Broadcasters Association on 10–20–83.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Los Alamos, New Mexico) (MM Docket No. 83–22, RM–4222)

Filed by: Francis E. Fletcher, Jr. & G. Paul Bollwerk, III, Attorneys for D. Matthew Runnels on 10–26–83.

Subject: Amendment of Parts 0, 1, and 97 of the Commission's Rules to allow the use of volunteers to prepare and administer operator examinations in the Amateur Radio Service. (PR Docket No. 83–27, RM–4229)

Filed by: David B. Popkin on 10–31–83. David R. Siddall, (K3ZJ), President for The Capitol Hill Amateur Radio Society on 11–7–83.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Hilton Head Island and Bluffton, South Carolina) (MM Docket No. 83–237, RM's 4355 & 4461)

Filed by: Gary S. Smithwick, Attorney for Plantation Broadcasting Corporation on 10–14–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–31072 Filed 11–17–83; 8:45 am]

BILLING CODE 6712–01–M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the United States of America as represented by the Field Operations Bureau of the Federal Communications Commission and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

Technical and licensing information on specific inventions may be obtained by writing to: Engineering Division, Field Operations Bureau, Federal Communications Commission, Room 738, 1919 M Street, NW., Washingon, D.C. 20554.

Please cite the number and title of inventions of interest.

Robert W. Crisman, Chief, Engineering Division, Field Operations Bureau, Federal Communications Commission.

Federal Communications Commission

Des. 239,451 Directional Receiver
Des. 244,466 Directional Antenna
Des. 247,432 Fine and Coarse Tuning Assembly for Cavities
Des. 260,895 Directional Annular Slot Antenna
4,001,737 Cavity Tuning Assembly Having Coarse and Fine Tuning Means
4,003,057 Rear Window Direction Finding Antenna
4,003,060 Direction Finding Receiver
4,007,461 Antenna System for Deriving Cardioid Patterns
4,025,924 Mobile Direction Comparator
4,028,709 Adjustable Yagi Antenna
4,091,386 Rear Window Direction Finding Antenna
4,129,874 Antenna Pattern Combiner
4,229,744 Directional Annular Slot Antenna
4,263,597 Nondisruptive ADF System
4,317,120 Sector Scan ADF System
4,318,106 Direction Finding System
4,410,890 VHF Direction Finder

William J. Tricarico,

Secretary.

[FR Doc. 83–31131 Filed 11–17–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Agreement No. 10486]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10486 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and that preparation of an environmental impact statement is not required. Agreement No. 10486, the EAC Lines Transpacific Service Agreement, provides for service by the East Asiatic Company, Ltd., Blue Star Line, Ltd. and Johnson Line AB between ports on the Pacific Coast of the United States (including the Hawaiian Islands and Alaska) and Canada, and ports in Western Australia, Southeast and East Asia and the Far East.

The Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83–31113 Filed 11–17–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Merger of Bank Holding Companies; Western Commercial

Western Commercial, Fresno, California, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Continental Bancorp, Fresno, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the nonbanking aspects of the proposal under the provisions and prohibitions of section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than December 2, 1983. 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.

Board of Governors of the Federal Reserve System, November 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–31062 Filed 11–17–83; 8:45 am]

BILLING CODE 6210–01–M

Acquisition of Bank Shares by a Bank Holding Company; Locust Grove Bancshares, Inc.

The company listed in this notice has 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 assests of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Locust Grove Bancshares, Inc.*, Locust Grove, Oklahoma; to acquire 93.9 percent of the voting shares of Bank of Commerce, Chouteau, Oklahoma. This

application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than December 14, 1983.

Board of Governors of the Federal Reserve System, November 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31060 Filed 11-17-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Fidelity Kansas Bankshares, 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 Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fidelity Kansas Bankshares, Inc.*, Topeka, Kansas; to acquire at least 5 percent of the voting shares or assets of Fidelity State Bank and Trust Company, Topeka, Kansas, and at least 94 percent of the voting shares of Fidelity Bankshares, Inc., Topeka, Kansas. Comments on this application must be received not later than December 13, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *TN Bancshares, Inc.*, El Paso, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas National Bank, El Paso, Texas. Comments on this application must be received not later than December 14, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Adamsville Bancorp, Inc.*, Adamsville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Adamsville, Adamsville, Tennessee. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than December 14, 1983.

Board of Governors of the Federal Reserve System, November 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31059 Filed 11-17-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de novo Nonbank Activities; Fleet Financial Group, Inc., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that request 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 rquests 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 Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (consumer finance and credit related insurance agency activities; Wisconsin): To engage *de novo* through its direct subsidiary, Fleet Mortgage Corp., Milwaukee, Wisconsin, in the following activities: consumer finance and insurance agency for the sale of credit life and credit accident and health insurance related to an extension of credit. These activities would be conducted from a new office to be located in Eau Claire, Wisconsin serving the counties of Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, Juneau, La Crosse, Monroe, Pepin, Polk, Price, Rusk, St. Croix, Sawyer, Taylor, Trempealeau, Washburn and Wood in Wisconsin. Comments on this application must be received not later than December 9, 1983.

2. *Fleet Financial Group, Inc.*, Providence, Rhode Island (consumer finance and insurance agency activities; Wisconsin): To engage *de novo* through its direct subsidiary, Fleet Mortgage Corp., Milwaukee, Wisconsin, in consumer finance and insurance agency activities for the sale of credit-related life and accident and health insurance. The activities would be conducted from a new office to be located in Madison, Wisconsin serving the Wisconsin counties of Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Lafayette, Richland, Rock, Sauk, and Vernon. Comments on this application must be received not later than December 9, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (consumer lending, related lending, servicing, and insurance agency activities; Texas): To make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including, but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; and to act as insurance agent for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted by a subsidiary, Chase Manhattan Financial

Services, Inc., from a *de novo* office in Forth Worth, Texas, serving the State of Texas. Comments on this application must be received not later than December 13, 1983.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CoreStates Financial Corp.*, Philadelphia, Pennsylvania (mortgage financing activities; Ohio, Kentucky, Pennsylvania): To engage through its indirect subsidiary, Colonial Mortgage Service Company Associates, Inc., in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans. These activities would be conducted from an office in Dayton, Ohio, serving the States of Ohio, Kentucky and Pennsylvania. Comments on this application must be received not later than December 14, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin (leasing and financing activities; Indiana and Kentucky): To engage through its subsidiary, First National Leasing Corp., in equipment leasing to business and manufacturing customers on a noncancellable full payout basis, to purchase loans from equipment suppliers and manufacturers and to make chattel security loans on commercial and industrial equipment. These activities would be conducted from an office in Indianapolis, Indiana, serving Indiana and Kentucky. Comments on this application must be received not later than December 2, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Commerce Financial Corporation*, Fort Worth, Texas (financing and servicing activities; Texas): To engage, through its subsidiary, Commerce Financial Services, Inc., in providing for its banking subsidiaries and others data processing and operational services incidental thereto including check processing, bookkeeping, research, reconciliation, return processing and telephone customer service. These activities would be conducted in the State of Texas. Comments on this application must be received not later than December 14, 1983.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (securities brokerage and incidental activities; Illinois and Washington): To engage, through its indirect subsidiary, Charles Schwab & Co., Inc., in the activities of securities brokerage, consisting principally of buying and selling securities solely upon the order and for the account of customers, and of extending margin credit in conformity with Regulation T. These activities would be conducted from offices in Oakbrook, Illinois, and Seattle, Washington, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than December 14, 1983.

2. *BankAmerica Corporation*, San Francisco, California (financing and servicing activities; all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, BA Business Credit Corporation, a Delaware corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, and servicing loans and other extensions of credit. Such activities will include, but not be limited to, making consumer installment loans and making loans and other extensions of credit of a commercial nature to businesses; such loans may be unsecured or secured by personal assets and residential and commercial real estate. These activities will be conducted from two *de novo* offices located in Seattle, Washington and Tampa, Florida; each office will be serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than December 7, 1983.

3. *Trabanc*, Salt Lake City, Utah (leasing activities; Utah, Idaho and Wyoming): To engage, through a subsidiary, in the activity of leasing of personal property and related activities normally incidental thereto. These activities would be conducted from offices in Salt Lake City, Utah, serving Utah, Idaho and Wyoming. Comments on this application must be received not later than December 12, 1983.

Board of Governors of the Federal Reserve System, November 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31061 Filed 11-17-83; 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 November 14.

Public Health Service

Food and Drug Administration

Subject: Transmittal of Periodic Reports and Promotional Material for New Animal Drugs (0910-0019)—Extension/No Change

Respondents: Businesses, small businesses, or other for profit organizations

Subject: Food Labeling: Declaration of Sodium Content of Foods and Label Claims for Foods on the Basis of Sodium Content—New

Respondents: Businesses, small businesses, or other for profit organizations

Subject: Laser Products; Proposed Amendments to Performance Standard (NPRM)—New

Respondents: Businesses, small businesses, or other for profit organizations

Subject: Agreement for Shipment of Devices for Sterilization (0910-0131)—Extension/No Change

Respondents: Businesses, small businesses, or other for profit organizations

OMB Desk Officer: Bruce Artim

Office of the Assistant Secretary for Health

Subject: 1984 National Nursing Home Survey Pretest (Admission Component Revision) (0937-0115)—Revision

Respondents: Individuals or households; businesses, small businesses, or other for profit organizations; not for profit institutions

Subject: Supplements to Financial Status Report (0937-0011)—Reinstatement

Respondents: State and local governments; not for profit institutions

Centers for Disease Control

Subject: Pulmonary Function Testing Course Approval and Reapproval Criteria—New
Respondents: State or local governments; businesses, small businesses, or other for profit organizations; Federal agencies or employees; not for profit institutions
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Physical Examination and Testing of the Framingham Offspring (Cycle 3) (0925-0096)—New
Respondents: Individuals or households
Subject: A Next-of-Kin Case—Control Study of Esophageal Cancer Among South Carolina Coastal Males—New
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Clearinghouse Questionnaire—New
Respondents: HMS clearinghouse
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: Application for Benefits Under the Norway—U.S. International Social Security Agreement (SSA-796 (11-83))—New
Respondents: Workers eligible for Social Security benefits from U.S. and/or Norway
Subject: Request for a Certificate of Coverage—New
Respondents: Workers eligible for Social Security Coverage by U.S. and foreign countries
Subject: Quarterly Work Incentive (WIN) Demonstration Program Report (0960-0254) (SSA-4769)—Revision
Respondents: State agencies administering WIN demonstration projects
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Freestanding Federally Funded Health Center Cost Report (0938-0235)—Extension/No Change
Respondents: 127 freestanding Federally funded health centers
Subject: Information Collection Requirements in Regulation Sections 405.1627 and 405.1629, Physician Certification and Recertification (Prospective Payment Regulation BERC-263) (0938-0306)—Extension/No Change
Respondents: Physicians accepting Medicare patients (outlier cases only)
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Officer Building, Room 3208, Washington D.C. 20503: ATTN: (name of OMB Desk Officer).

Dated: November 15, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-31078 Filed 11-17-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Minneapolis District Office, chaired by John Feldman, District Director. The topic to be discussed is Drug Use and the Elderly.

Date: Tuesday, November 29, 1983, 10 a.m.

Address: Minnesota Church Center, 122 West Franklin Ave., Minneapolis, MN 55404.

For Further Information Contact: Therese A. Bowker, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-725-2121.

Los Angeles District Office, chaired by Abraham I. Kleks, District Director. The topic to be discussed is Drug Use and the Elderly.

Date: Tuesday, November 29, 1983, 1 p.m.

Address: Cooperative Extension Auditorium, 4341 East Broadway, Phoenix, AZ 85040.

For Further Information Contact: Irene Gomez Caro, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

Dallas District Office, chaired by James Anderson, District Director. The topic to be discussed is Drug Use and the Elderly.

Date: Tuesday, November 29, 1983, 7 p.m.

Address: 509 North Bell Ave., Denton, TX 76201.

For Further Information Contact: Don Aird, Consumer Affairs Officer, Food and Drug Administration, 1200 Main Tower Bldg., Dallas, TX 75202, 214-767-5433.

Brooklyn District Office, chaired by George J. Gerstenberg, District Director. The topic to be discussed is Drug Use and the Elderly.

Date: Thursday, December 1, 1983, 1:30 p.m.

Address: 26 Federal Plaza, Rm. 305A, New York, NY 10278.

For Further Information Contact: Herman B. Janiger, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 211-965-5043.

Detroit District Office, chaired by Alan L. Hoeting, District Director. The topics to be discussed are Drug Use and the Elderly; and Aspartame Update.

Date: Monday, December 5, 1983, 1 to 3 p.m.

Address: City-County Administration Bldg., Rm. 24, Evansville, IN 47708.

For Further Information Contact: Lilyan M. Goossens, Consumer Affairs Officer, Food and Drug Administration, 575 North Pennsylvania St., Rm. 693, Indianapolis, IN 46204, 317-269-6500.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-31107 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83A-0339]

Enforcement Action Under the New Drug Provisions of the Federal Food, Drug, and Cosmetic Act; Certain OTC Drug Products; Advisory Opinion

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its advisory opinion which states that the agency is prepared to take immediate enforcement action under the new drug provisions of the Federal Food, Drug, and Cosmetic Act (the act) against certain over-the-counter (OTC) drug products (1) labeled as stimulants and containing anything other than caffeine as the active ingredient and (2) labeled for any purpose and containing as their sole active ingredients any of the following combinations, including their salts, (a) caffeine in combination with ephedrine or pseudoephedrine, (b) phenylpropanolamine in combination with ephedrine or pseudoephedrine, (c) phenylpropanolamine in combination with caffeine. This action is necessary because of the widespread abuse of these products intended to produce effects similar to those produced by substances subject to the Controlled Substances Act (CSA). The intended effect of this action is to eliminate misuse and abuse of these products.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Nationa' Center for

Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: Certain over-the-counter (OTC) drug products have a highly suspect marketing history and, in some cases, no known medical rationale. They are frequently used as recreational drugs to mimic the effects of, and capitalize on the market for, certain controlled substances and thus are misused and abused. The specific drug products (including their ingredients and salts) that are the subject of this notice are (1) products that contain anything other than caffeine as their active ingredient and are labeled or otherwise promoted for use as a stimulant or alertness aid, or for other such similar uses; and (2) products, labeled for any purpose, that contain as their sole active ingredients any of the following combinations (a) caffeine in combination with ephedrine or pseudoephedrine, (b) phenylpropanolamine in combination with ephedrine or pseudoephedrine, (c) phenylpropanolamine in combination with caffeine.

The agency is aware that the individual active ingredients contained in the products that are the subject of this notice, as well as certain combinations of them, have been or are being considered within the context of the agency's ongoing OTC Drug Review. The agency has previously refrained from taking action against these products in accordance with its announced policy to defer enforcement actions with respect to products included in the ongoing OTC Drug Review until the administrative process applicable to those products has been completed. Because the products that are the subject of this notice have, in some instances, been marketed and promoted as products capable of producing effects similar to those produced by certain substances subject to the CSA and are widely misued and abused, the agency is changing its enforcement policy with respect to the products described. The agency will now begin enforcement of the new drug approval provisions of the act with respect to these drugs.

The notice is an official advisory opinion by the agency under 21 CFR 10.85. Any statement by the agency, in its Compliance Policy Guide or otherwise, that suggests in any way that enforcement actions will not be taken against the products referred to in this notice is revoked to the extent that that statement applies to such products. The agency has determined that, with respect to all products covered by this notice with the exception of certain caffeine plus phenylpropanolamine combinations discussed below, substantial public interest considerations preclude continued acceptance of any action undertaken or completed in alleged conformity with previously articulated agency policy (see 21 CFR 10.85(h)). Also, because there is no legitimate use for such products, no transition period with the one exception discussed below for use of the products is applicable, *id.*

FDA believes that a transitional period for the removal from the market of the product combination of caffeine and phenylpropanolamine, but not other products covered by this notice, is appropriate. Although FDA believes that this combination is clearly a "new drug" within the meaning of the act, a panel report to FDA as part of the OTC Drug Review did recommend that this combination be classified as generally recognized as safe and effective as an "Anorectic/Stimulant" (see 47 FR 8476). No other combination covered by this notice was the subject of the same type of recommendation.

Therefore, the agency is prepared to allow, and thus not to commence enforcement action with respect to, the sale of products (1) that contain caffeine and phenylpropanolamine as their sole active ingredients; (2) that are labeled solely as appetite suppressants, diet aids, or diet aids/stimulants; (3) that have been manufactured before the date of publication of this notice or as part of a batch of products actually in process on the date of publication of this notice provided that the manufacturers or other holders of those drugs provide FDA information sufficient to allow it to determine the date of manufacture of such products encountered on the market; and (4) that have never been labeled for any purposes other than as an appetite suppressant, a diet aid, or diet aid/stimulant.

The agency is not, at this time, setting a final date after which no marketing of caffeine plus phenylpropanolamine combinations may be marketed. The agency will monitor the market for these products. It may conclude, based on such monitoring, that it is appropriate to set a final cut-off date. It will not, however, do so until January 17, 1984 and any cut-off date that is set will extend at least 4 months after the announcement of such a date. Thus, those involved in the marketing of this product may be assured that there will be a grace period during which they can sell inventories of this product providing the product complies with the four factors stated above.

The agency has considered whether there is a need to undertake notice and comment rulemaking to state its position on these drug products in **Federal Register** and has concluded that no such requirement exists. This statement, which is arguably a revocation of a prior advisory opinion, is in accordance with FDA's regulations that do not require notice and comment rulemaking for publication of such revocation (see 21 CFR 10.85(g)). In addition, this statement of agency policy with respect to these drugs is not a substantive rule because it does not have, in and of itself, the force and effect of law. *Cf. Burroughs Wellcome Co.* v. *Schweiker*, 649 F. 2d 221, 225 (4th Cir. 1981). This statement is not a "declaration" that a drug is a new drug made after appropriate administrative proceedings. Rather, it is a statement of the official position of FDA and an announcement that the agency is prepared to initiate enforcement actions in which the government would, if called upon to do so, establish in court the new drug status of the products referred to.

Dated: November 7, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-31108 Filed 11-17-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Business Meeting

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing.

ACTION: Notice of business meeting of the Commission.

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will hold a Business Meeting on December 21 and 22, 1983. The meeting will be held in the Brick Room at 1925 K St., NW., Washington, D.C. 20036. The meetings will convene at 9:00 a.m. each day.

FOR FURTHER INFORMATION CONTACT: F. Scott Bush, Executive Director, or Sorrell Caplan, Public Affairs Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036 Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98–63, approved July 30, 1983, making supplemental appropriations for fiscal

year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

The Commission on Fair Market Value Policy for Federal Coal Leasing will hold a Business Meeting on December 21, and 22, 1983, to discuss public comments on draft Commission recommendations.

The Commission was established by Pub. L. 98–63 approved by President Reagan on July 30, 1983 to review Federal coal leasing statutes, policies and procedures to ensure receipt of fair market value. To complete its mandate, the Commission will:

A. Examine the current statutes, policies and procedures to ensure receipt of fair market value of Federal coal leases;

B. Evaluate efforts to improve the Department's program; and

C. Recommend improvements in those statutues, policies, and procedures.

Dated: November 10, 1983.

David F. Linowes,

Chairman.

[FR Doc. 83–31065 Filed 11–17–83; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

October 27, 1983.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the:

Cheokee Indians of Hoke County, Inc., Route 1 Box 129–C, Lumber Bridge, North Carolina 28357

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on September 20, 1983. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83–31072 Filed 11–17–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[4–19952–I–CA–LM; CA 13587]

Conveyance of Public Land; Riverside County, California

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), Jojoba Farms of California, Inc., 5615 Intervale Drive, Riverside, California 92506, has purchased by competitive sale public land in Riverside County, California, described as:

San Bernardino Meridian, California

T. 5 S., R. 15 E.,
Sec. 2, Lots 3, 4, 5, and 6, S½SW¼, and SE¼.

Containing 315.30 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Jojoba Farms of California, Inc.

Dated: November 7, 1983.

Eleanor Wilkinson,

Chief, Lands & Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 83–31073 Filed 11–17–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications, Duke University Primate Center, et al.

The following applicants have applied for permits to conduct certain activities with endagered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Duke University Primate Center, Durham, NC; PRT 2–11278

The applicant requests a permit to import one male and one female captive-born lesser mouse lemur (*Microcebus murinus*) from the Skansen Aquarium, Stockholm, Sweden, for enhancement of propagation or survival.

Applicant: George H. Baker, Dunlap, IL; PRT 2–11117

The applicant requests a permit to import two captive-born Japanese cranes (*Grus japonensis*) from Carl Hagenbeck, Hagenbeck Zoo, Hamburg, West Germany, for enhancement of propagation or survival.

Applicant: Division of Fish and Wildlife, Government of the Virgin Islands of the U.S., St. Thomas, VI; PRT 2–6582

The applicant requests renewal of a permit to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*) and leatherback (*Dermochelys coriacea*) sea turtles for tagging studies. No sea turtles will be intentionally killed under this permit. An amendment has also been requested to allow relocation of turtle nests in danger of being lost to beach erosion.

Applicant: Florida State Museum, Gainsville, FL; PRT 2–11264

The applicant requests a permit to collect blood samples and salvage parts of dead specimens and nests of the American crocodile (*Crocodylus acutus*) and Morelet's crocodile (*C. moreletii*), encountered during the course of a research project in Belize for enhancement of propagation or survival.

Applicant: International Animal Exchange, Ferndale, MI; PRT 2–10441 (Shipment #6)

The applicant requests a permit to export two female white-collared mangabys (*Cercocebus torquatus*) from Erie Zoo, Erie, PA and one female mandrill (*Papio sphinx*) from Detroit Zoo to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation and survival.

Applicant: International Animal Exchange, Ferndale, MI; PRT 2–11301

The applicant requests a permit to purchase in foreign commerce one male and two female Przewalski's horses (*Equus przewalskii*) from Tiergarten der Stadt Nurnberg, West Germany and export them to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation and survival.

Applicant: Duke University Primate Center, Durham, NC; PRT 2–11304

The applicant requests a permit to import one male captive born lesser mouse lemur (*Microcebus murinus*) from the Zoological Society of London, London Zoo, Great Britain, for enhancement of propagation or survival.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the

Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2 # when submitting comments.

Dated: November 15, 1983.

R. K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Branch, U.S. Fish and Wildlife Service.

[FR Doc. 83-31128 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Boston National Historical Park Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the fourth-coming meeting of the Boston National Park Advisory Commission. The matters to be discussed at this meeting include:

1. Report from Site Liaison Subcommittee.
2. Report from Education Subcommittee.
3. Commandant's House Preservation and Use.
4. Report from Budgeting and Priorities Subcommittee.
5. Report on Water Shuttle service.
6. Water-Chelsea Connector Construction Impacts.
7. Update on Hoosac Pier plans.
8. Plans to improve handicapped access to Faneuil Hall.
9. Freedom Trail signing, striping, and litter control.
10. Review of 1983 visitor season and plans for 1984.
11. Review and discussion of park administration.

DATE: November 29, 1983, 11:00 a.m. to 3:00 p.m.

ADDRESS: Boston National Historical Park, Visitor Center, 4th Floor Conference Room, 15 State Street, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Hugh D. Gurney, Superintendent, Boston National Historical Park, 15 State Street, Boston, Massachusetts 02109 (617-242-5644).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463. The Commission was established by Pub. L. 93-431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

Dated: November 8, 1983.

Herbert S. Cables,

Regional Director, North Atlantic Region.

[FR Doc. 83-31121 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, December 9, 1983.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

At the 1:30 PM meeting the Commission will consider the following:

1. Parking for Visiting Aircraft at Provincetown Airport
2. Interim Report of 1983 Survey of Herring River Basin

The meeting is open to the public. It is expected that 30 persons will be able to attend the session in addtion to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, telephone (617) 349-3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, So. Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

November 10, 1983.

[FR Doc. 83-31120 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, December 7, 1983, at the Student Center, Tamalpais High School, Mill Valley, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Hass, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Mr. John Mitchell
Ms. Gimmy Park Li
Mr. Merrit Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda item for this meeting will be to receive public testimony on planning and use alternatives for Mill Valley Air Force Station.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123; telephone (415) 556-2920.

Minutes of the meeting will be available for public inspection by January 6, 1984 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: November 4, 1983.

John S. Adams,

Acting Regional Director, Western Region.

[FR Doc. 83-31122 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Wednesday, December 14, 1983, in Room 234 at the

National Capital Region Headquarters, 1100 Ohio Drive, SW., Washington, D.C.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Russell E. Dickenson (Chairman), Director, National Park Service, Washington, D.C.
Glen Urquhart, Chairman, National Capital Planning, Commission, Washington, D.C.
George H. White, Architect of the Capitol, Washington, D.C.
General Mark W. Clark, Chairman, American Battle Monuments, Commission, Washington, D.C.
J. Carter Brown, Chairman, Commission of Fine Arts, Washington, D.C.
Marion S. Barry Mayor of the District of Columbia, Washington, D.C.
Richard O. Haase, Commissioner, Public Building Service, Washington, D.C.

The purpose of the meeting will be to review H.R. 3508, which would authorize the Eleventh Airborne Division to erect a memorial in the District of Columbia or its environs; H.R. 529 to change the name of the Rochambeau Bridge crossing the Potomac River to Heroes Bridge; and H.J. Res. 236 to authorize the erection of a memorial on public grounds in the District of Columbia or its environs in honor and commemoration of members of the Armed Forces of the United States and the Allied forces who served in the Korean War.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed.

Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at 202–426–7750. Minutes of the meeting will be available for public inspection 7 weeks after the meeting at the Office of Land Use Coordination, National Capital Region, Room 206, 1100 Ohio Drive, SW., Washington, D.C. 20242.

Dated: November 10, 1983.

Manus J. Fish,

Regional Director, National Capital Region.

[FR Doc. 83-31125 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-70-M

Yukon-Charley Rivers National Preserve, Alaska; Meeting

ACTION: Notice of Public Meeting for the purpose of receiving public comments, for the General Management Plan/ Environmental Assessment, Yukon-Charley Rivers National Preserve.

DATES: Comments should be received no later than January 15, 1984. The dates for public hearing regarding the Draft General Management Plan/ Environmental Assessment are:

December 12, 6:30 p.m., Circle, Alaska, Village Council Building
December 13, 6:30 p.m., Eagle, Alaska, Public Library
December 14, 7:00 p.m., Fairbanks, Alaska, Public Library, 1215 Cowles Street
December 15, 7:00 p.m., Anchorage, Alaska, National Park Service Office, 2525 Gambell Street

ADDRESSES: Comments on the Draft General Management Plan/ Environmental Assessment should be addressed to the Alaska Regional Director, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Superintendent, David Mihalic, Yukon-Charley Rivers National Preserve, P.O. Box 64, Eagle, Alaska 99738, (907) 579–8001, or Ms. Linda Nebel, Chief, Division of Planning and Design, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503, (907) 271–4637.

Dated: November 10, 1983.

James J. Berens,

Acting Regional Director.

[FR Doc. 83-31124 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Availability of Final Environmental Impact Statement; Approval of State and Indian Reclamation Program Grants

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

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: The Office of Surface Mining (OSM) is making available a final environmental impact statement (EIS) on the impacts that would result from approvals by OSM of State and Indian tribal grant applications under abandoned mine land reclamation of the Surface Mining Control and Reclamation Act of 1977. The EIS evaluates the four alternative actions of approval of the grant request as submitted, partial approval, complete denial and no action. The evaluation will assist OSM in making a decision on approval of grant applications.

ADDRESSES: Copies of the final EIS are available at the following OSM offices:.

Office of Surface Mining, U.S. Department of the Interior, Interior South Building, Room 134, 1951 Constitution Avenue, NW., Washington, DC 20240 (telephone: 202–343–5854);
Office of Surface Mining, U.S. Department of the Interior, Administrative Record, 1100 L Street, NW., Room 5315, Washington, DC 20240 (telephone 202–343–7896);
Office of Surface Mining, Eastern Technical Center, Deputy Administrator's Office, Ten Parkway Center, Pittsburgh, PA 15220 (telephone: 412–937–2828); and
Office of Surface Mining, Western Technical Center, Administrator's Office, Brooks Towers, 1020 15th Street, Denver, CO 80202 (telephone: 303–837–5421).

FOR FURTHER INFORMATION CONTACT: Dr. Mark Boster, Acting Chief, Division of Environmental and Economic Analysis, Room 134, Office of Surface Mining, U.S Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240 (telephone: 202–343–5854).

SUPPLEMENTARY INFORMATION: The final EIS contains all the written comments submitted to OSM regarding the drafts EIS that was published on July 5, 1983, and also contains responses to these comments on the draft documents. OSM has indentified the preferred alternative to be approval of the grant request as submitted.

Dated: November 10, 1983.

J. R. Harris,

Director.

[FR Doc. 83-31080 Filed 11-17-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: November 14, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) East & West Transport Systems, Inc.

(2) 482 #C West Arrow Hwy., San Dimas, CA 91773.

(3) 482 #C West Arrow Hwy., San Dimas, CA 91773.

(4) Sharon Sharp, 482 #C West Arrow Hwy., San Dimas, CA 91773.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31084 Filed 11-17-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-167)]

Rail Services Abandonment; Burlington Northern Railroad Co. in Carbon County, MT; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 6.13 mile rail line between Fromberg (milepost 13.40) and Bridger (milepost 19.53) in Carbon County, MT. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade with this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31086 Filed 11-17-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 27590]

Rail Carriers; Trailer Train Co. et al; Approval of the Pooling of Car Service With Respect to Flat Cars

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed changes to car pooling agreement.

SUMMARY: The Commission is requesting comments on whether to approve, under 49 U.S.C. 11342, a proposed supplement to the Form A Car Contract of Trailer Train Company regarding piggyback flat cars. The proposal would provide, on a voluntary basis, for assignment or allocation of new lightweight piggyback flat cars to members. Participating carriers would be responsible for paying car hire for a minimum period of 3 years.

DATES: Comments regarding the proposed changes are due on or before December 19, 1983. An original and 10 copies should be filed at the commission and one copy addressed to petitioner's representative.

ADDRESSES:

1. Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423; and
2. Petitioner's Representative, Paul R. Duke, Covington & Burling, 1201 Pennsylvania Ave., NW., Washington, D.C. 20036.

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 T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Trailer Train's petition and the supporting statement of may be inspected at the Office of the Secretary or a copy may be requested from petitioner's representative.

Decided: November 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31088 Filed 11-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations;

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: ARA Services, Inc. ("ARA"), 6th and Walnut Streets, Philadelphia, PA 19106.

2. Wholly-owned subsidiaries which will participate in the operations, and their States of incorporation:

Name and Jurisdiction Where Incorporated

Aero Carolina, Inc., North Carolina
Aero Enterprises, Inc., D.C.
Aero Kitty Hawk, Inc., Idaho
Air La Carte, Inc., New York
Aluminum Recycling Co., Pennsylvania
ARA Environmental Services, Inc., Maryland
ARA Healthcare Management, Inc., Delaware
Meditrans, Inc., Louisiana
Care Inn, Inc., Indiana
ARA Food Service Co., Pennsylvania
ARA Health/Care, Inc., Delaware
ARA DevCon, Inc., Florida
Geriatrics, Inc., Nevada
Retama Manor Nursing Centers, Inc., Texas
Nationwide Health Services, Inc., Texas
National Living Centers, Inc., Delaware
Blalock Nursing Home, Inc., Texas
Blalock Nursing Home-East, Inc., Texas
Blalock Nursing Home-North, Inc., Texas
Blalock Nursing Home-Southwest, Inc., Texas
Blalock Nursing Home-Spring Branch, Inc., Texas
Development Realty Corporation,Texas
National G. South Incorporated,Texas
National Living Centers, Inc., Texas
NLA Management Company, Inc., Texas
Western Medical Enterprises, Inc., California
Balkt Convalescent Hospital, Inc., California
Driftwood Convalescent Hospital, Inc., California
Driftwood Pharmacy, Inc., California
Pasadena Medical Pharmacy, Inc., California
ARA Health Facilities of Florida, Inc., Florida
ARA Healthcare Textile Services, Inc., Delaware

ARA Hospital Food Management, Inc., Delaware
ARA Leisure Services, Inc., Delaware
ARA Leisure Convention Services, Inc., Pennsylvania
ARA Leisure Services of Texas, Inc., Texas
Mile High Enterprises, Inc., Colorado
Pittsburgh Stadium Concessions, Inc., Pennsylvania
ARA Maintenance Management Systems, Inc., D.C.
ARA Payroll Services, Inc., Delaware
Aramont Risk Management Services, Inc., Virginia
ARA Transportation, Inc., California
ARA School Bus Company, Inc., Wisconsin
ARA Transportation Services of Norfolk, Inc., Virginia
ARA Transportation Services of Atlanta, Inc., Georgia
ARA Transportation Services of Dayton, Inc., Ohio
ARA Transportation Services of Boston, Inc., Massachusetts
ARA Transportation Services of Twin Cities, Inc., Minnesota
H.S.T., Ltd.,Hawaii
National Bus Sales and Leasing Co., Inc., California
ARA Transportation Services, Inc., Alaska
ARA Virginia Sky-Line Co., Inc., Virginia
ARASERVE of Lehigh Valley, Inc., Pennsylvania
ARASERVE of Puerto Rico, Inc., Delaware
ARASERVE, Inc., Delaware
Advertising Services, Ltd., Pennsylvania
Coffee System, Inc., Delaware
Aratex Services, Inc., Delaware
AMI Automated Management Information California
Araclean Services, Inc., Delaware
Aratex Textile Rental Services, Inc., Delaware
Landy Textile Rental Services, Inc., Pennsylvania
Neway Uniform & Towel Supply of Florida, Inc., Florida
Rental Uniform Service of Roanoke, Inc., Virginia
Silco, Inc., Ohio
Arkansas Vending Service, Inc., Arkansas
Cooper Motor Lines, Inc., South Carolina
Davre's, Inc., Delaware
Encore Service Systems, Inc., Florida
Golden Gate Magazine Company, California
Ground Services, Inc., Delaware
Ground Services, Inc. St. Croix, Virgin Islands
Ground Services, Inc. (St. Thomas), Virgin Islands
Kenworthy Air Freight Services, Inc., Indiana
Mack Bros., Ltd., New York
Mack Bros. Sales Corp., New York
Means Services, Inc., Delaware
Linen Supply Services, Inc., Illinois
Robinson's Fabric Care Center, Inc., Wisconsin
Mesa Verde Company, Colorado
Mid-Continent News Co., Inc., Delaware
National Child Care Centers, Inc., Delaware
Educare Child Care Centers, Inc., Tennessee
Resort Concessions, Inc., New York
Smith's Transfer Corporation, Virginia
M R & R Trucking Company, Florida
Solon Automated Services, Inc., Delaware
Spectrum Emergency Care, Inc., Missouri
Correctional Medical System, Inc., Missouri
Correctional Medical Systems, Inc., Alabama
Correctional Medical Systems of Illinois Inc., Illinois
Group Three Advertising, Inc., Missouri
S W V Corporation, West Virginia
Terminal Newsstands, Inc., Florida
Terminal Shops, Inc., Florida
Trebor Truck and Trailer Leasing, Inc., Delaware
Vendors Supply Corp., Delaware

1. Parent corporation and address of principal office: The Continental Group, Inc., One Harbor Plaza, Stamford, CT 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(a) Continental Forest Industries, Inc. (Delaware)
(b) Continental Hopewell Woodlands, Inc. (Delaware)
(c) Continental Augusta Woodlands, Inc. (Delaware)
(d) Continental Savannah Woodlands, Inc. (Delaware)
(e) Continental Hodge Woodlands, Inc. (Delaware)
(f) Continental Bleached Products, Inc. (Delaware)
(g) Continental Fibre Drum, Inc. (Delaware)
(h) Continental Folding Carton, Inc. (Delaware)
(i) Continental Consumer Products, Inc. (Delaware)
(j) Continental Solid Wood Products, Inc. (Delaware)
(k) Continental Land Resources, Inc. (Delaware)
(l) ConoKraft International, Inc. (Delaware)
(m) Steelpak, Inc. (Virginia)
(n) All Points Distribution Centers, Inc. (Delaware)
(o) Continental White Cap, Inc. (Delaware)
(p) Continental Plastic Containers, Inc. (Delaware)
(q) Continental Bondware, Inc. (Delaware)
(r) Continental Plastic Beverage Bottles, Inc. (Delaware)
(s) Continental Plastic Industries of Europe, Inc. (Delaware)
(t) Continental Can International Corporation (Delaware)
(u) Continental Shellmar, Inc. (Delaware)
(v) Continental Can Equipment Company, Inc. (Delaware)
(w) Continental Packaging Company, Inc. (Delaware)
(x) Continental of Panama Incorporated (Panama)
(y) Continental Can Company, (U.K.) Ltd. (Delaware)
(z) Conotrade International, Inc. (Delaware)
(aa) Colonial Canners Ltd. (Canada)
(bb) Continental Can Company, Inc. (Delaware)
(cc) Paper Wood, Inc., (Delaware)
(dd) Tree Paper, Inc. (Delaware)
(ee) Forest Paper, Inc. (Delaware)

1. Parent corporation and address of principal office: Harte-Hanks Communications, Inc., P.O. Box 269, San Antonio, Texas 78291.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporations:

AAA Direct Mail Advertising, Inc., Utah
Abilene Publishing, Inc., Texas
Advertising Distributors of America of Illinois, Inc., Illinois
Advertising Distributors of Maryland, Inc., Maryland
Arkansas Newspapers, Inc., Arkansas
Big Spring Herald, Inc., Texas
Caller-Times Publishing Company, Texas
The Commerce Journal, Inc., Texas
Consumer Cable Corporation, Texas
The Corsicana Sun, Inc., Texas
Del Rio Publishing Company, Inc., Texas
The Denison Herald, Inc., Texas
The Eagle Printing Company, Texas
El Paso Shopping Guide, Inc., Texas
Erie Advertising, Inc., New York
Florida Radio, Inc., Florida
The Flyer Publishing Corporation, Florida
Greater Houston Mailing Service, Inc., Texas
Harte-Hanks Cable Communications, Inc., Texas
Harte-Hanks California CDM, Inc., California
Harte-Hanks LPTV, Inc., Texas
Harte-Hanks Radio, Inc., North Carolina
Harte-Hanks Television, Inc., Texas
Harte-Hanks Texas Newspapers, Inc., Nevada
Herald-Banner Publishing Company, Texas
Horst Advertising Service, Inc., Virginia
The Huntsville Item, Inc., Texas
Independent Publishing Company, South Carolina
Jordan Dennis Company, Inc., Massachusetts
Kip-Lee CATV, Inc., Texas
KY3, Inc., Missouri
KYND Tower Corp., Texas
La Jolla Publishing Company, Inc., California
Leader Publishing Company, Arkansas
Marshall Publishing Company, Texas
Mid-America CDM, Inc., Ohio
MLA Corp., Arizona
National Telecommunications Services, Inc., Delaware
Nortex Offset Publications, Inc., Texas
The North Texas Publishing Company, Texas
Pennysaver Publications, Inc., Texas
Publishers' Offset, Inc., California
RMH Research, Inc., New Jersey
Radio & Records, Inc., California
Record Publications, Inc., Arkansas
Reporter Publishing Company, Texas
San Angelo Standard, Inc., Texas
San Diego Sentinel Publishing Co., California
Shopper's Guide, Inc., Arizona
Star News Publishing Company, California
Tele-Research, Incorporated, California
Tele-Research Item Movement, Inc., Texas
TeLeVision 12 of Jacksonville, Inc., Florida
Times Publishing Company of Wichita Falls, Texas
Trademark Press, Inc., Texas
Urban Data Processing, Inc., Massachusetts
Walton Publishing Company, Georgia
WFMY Television Corp., North Carolina
Western States Marketing Corp., New Mexico
White County Publishing Company, Arkansas
Woodbury Daily Times Co., Inc., New Jersey

1. Parent corporation and address of principal office: Morse Bros. Inc., P.O. Box 7, Lebanon, Oregon 97355.

2. Wholly-owned subsidiary which will participate in the operations, and address of its respective principal office: Morse Bros. Lincoln Ready Mix, Inc., P.O. Box 7, Lebanon, Oregon 97355, an Oregon corporation.

1. Parent corporaton and address of principal office: The Quaker Oats Company, 345 Merchandise Mart Plaza, Chicago, Illinois 60654.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Brookstone Company, Inc., New Hampshire
Ardmore Farms, Inc., Pennsylvania
Herrschners, Inc., Wisconsin
Jos. A. Bank Clothiers, Inc., Delaware
Wolf Brand Products, Texas
Quality Operations, Inc., Delaware
Rockford Can Company, Delaware
Stokely-Van Camp, Inc., Indiana

1. Parent corporation and address of principal office: Stone Container Corporation, 360 North Michigan Avenue, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(a) Stone Container Corporation, AZ
(b) Stone Forest Products, Inc., DL
(c) Stone Container Corporation, DL
(d) Stone Packaging Systems, Inc., FL
(e) Stone Container Corporation, GA
(f) Cameo Container Corporation, IL
(g) Stone Container Corporation, IL
(h) Gulf Container Corporation, LA
(i) Stone Container Corporation, MI
(j) Stone Container of Kansas City, Inc., MO
(k) Stone Container Corporation, MO
(l) Sampson Paper Bag Co., Inc., NY
(m) Cousins Leasing Corp., NY
(n) Sampson Mid-America Inc., IN
(o) Sampson Mid-Atlantic Inc., MD
(p) Tarheel Container Corporation, NC
(q) Stone Resource & Energy Corporation, OH
(r) Stone Container Corporation, PA
(s) Orangeburg Trucking, Inc., SC
(t) Dean-Dempsey Corporation, SC
(u) Stone Forest Industries, Inc., DL
(v) Great Plains Bag Corp., DL
(w) Stone Corrugated, Inc., DL
(x) Stone Port Wentworth, Inc., DL
(y) Stone Can Properties, Inc., DL
(z) Stone Hodge, Inc., DL
(aa) North Louisiana & Gulf Railroad, LA
(bb) Central Louisiana & Gulf Railroad, DL
(cc) Stone Hopewell, Inc., DL
(dd) Forest Energy Construction Management Corp., DL
(ee) Stone Lease, Inc., DL
(ff) Stone Container International Corporation, IL
(gg) Dean-Dempsey International Corporation, SC

A. Parent Corporation: Trinity Industries, Inc., 4001 Irving Blvd., Dallas, Texas 75247, P.O. Box 10587, Dallas, Texas 75207.

B. Wholly-owned subsidiaries which will participate in the operations:

1. Trinity Industries Transportation, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207, a Texas corporation
2. Aesco Steel, Inc., 1085 Parker Street, P.O. Box 1984, Montgomery, Alabama 36197, an Alabama corporation
3. Halter Marine, Inc., 19501 Chef Menteur Highway, P.O. Box 29266, New Orleans, Louisiana, a Louisiana corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-31085 Filed 11-17-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-41]

Monroe Gordon Piland, III, M.D.; Denial of Application

On November 24, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Monroe Gordon Piland, III, M.D. (Respondent), an Order to Show Cause proposing to deny Respondent's pending application for DEA registration. Respondent, *pro se*, requested a hearing and the matter was placed on the docket of Administrative Law Judge Francis L. Young.

Initially, a hearing was scheduled for April 14, 1983, in Washington, D.C. On the eve of the hearing, attorneys Ramsey Clark and Weldon Brewer informed both the Administrative Law Judge and counsel for the Government that they had just been retained by Respondent in this matter. Based on their request for postponement of the hearing, the judge granted a 30-day continuance. Thereafter, Judge Young determined that a hearing was no longer necessary since both sides desired merely to submit documentary evidence. They completed submission of their evidence by July 6, 1983 and subsequently filed proposed findings and conclusions with supporting arguments.

On August 24, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. On September 14, 1983, Respondent's counsel filed exceptions to the Administrative Law Judge's recommended decision. Judge Young transmitted the record of these proceedings, including Respondent's exceptions to the Administrator on September 21, 1983. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

On August 10, 1980, police, acting of on a tip from Respondent's neighbor, discovered that Respondent was growing 111 marijuana plants in boxes in his yard. The plants were not visible from the road because fishing weights were tied to the tops of the plants causing them to bend over towards the ground and not stand up straight. Respondent was convicted on February 28, 1981, following a jury trial in the General Court of Justice, Superior Court Division, Dare County, North Carolina of manufacturing a controlled substance and possession of marijuana. Each of these offenses was a felony relating to a controlled substance. 21 U.S.C. 841(a). The North Carolina Court of Appeals affirmed the lower court's decision. *State v. Piland*, 293 S.E. 2d 278 (N.C. Ct. App. 1982). The North Carolina Supreme Court refused to review the decision of the Court of Appeals. Therefore, there is a lawful basis for denial of Respondent's application for registration. *Serling Drug Company*, Docket No. 74-12, 40 FR 11918 (1975); *Raphael C. Cilento, M.D.*, docket No. 79-2, 44 FR 30466 (1979); and *Thomas W. Moore, Jr., M.D.*, Docket No. 79-13, 45 FR 40743 (1980).

Both sides cited specific pages of the Respondent's criminal trial transcript to the Administrative Law Judge to aid him in making his recommendation to the administrator. At the trial, Respondent admitted that the marijuana plants were his and he was trying to secrete them by tying weight to the tops, since he knew that growing these plants was illegal. However, Respondent stated that he was growing the marijuana to treat Gail Hollis, a cancer patient at the clinic in Hatteras, North Carolina where he practiced with two other physicians. Marijuana has been used successfully to combat nausea in some chemotherapy patients.

Respondent had discussed with Mrs. Hollis on several occasions the possible use of marijuana as a treatment and she always dismissed the idea. Judge Young found that Mrs. Hollis never asked Respondent to obtain or provide marijuana for her. She never gave the slightest indication of a desire that he do so. Respondent never told Mrs. Hollis that he was growing marijuana for her benefit. Respondent never discussed a plan for growing marijuana with any of the other physicians with whom he practiced at the clinic. He never provided anyone with any marijuana for a supposedly legitimate medical purpose. Respondent made no effort to put Mrs. Hollis in a legitimate

experimental program at Duke University Medical School where the use of marijuana for chemotherapy nausea was being studied and marijuana was being administered legally to patients. Dr. Piland did not know how much THC (active ingredient in marijuana) he should give Mrs. Hollis. Marijuana is sometimes contraindicated in a patient due to other conditions; Respondent did not check whether this might be the case with Mrs. Hollis. Finally, Respondent brought the seeds from Canada where he had been known to use marijuana for his own personal recreation. He did not even plant the seeds for one year after importing them.

The Administrative Law Judge was not given an opportunity to hear Respondent testify and thereby assess Respondent's credibility as to his professed motive. Judge Young had to base his findings on the criminal trial transcript. Judge Young noted in his opinion that Respondent did not know how to do what he says he was trying to do; he discussed his plan with no one; and he took the first step in the process by raising marijuana (illegally importing seeds) long before he says he formulated his professed motive. The preponderance of the evidence creates the inference that Respondent was not motivated by a desire to help others but instead by a desire to gain pleasure from the illicit substance or even to unlawfully sell it to others.

Respondent is a physician. As a physician he should strive to maintain the physical health of his patients. Instead, Respondent manufactured an illegal substance for possible distribution to the public. He cannot be trusted with a DEA registration to possess and prescribe controlled substances. The Administrative Law Judge has recommended that the Respondent's application for registration be denied. The Administrator has reviewed the entire record including the Respondent's exceptions and adopts the recommended rulings, findings of facts, conclusions of law and decision of the Administrative Law Judge in their entirety.

Having concluded that there is a lawful basis for the denial of the Respondent's application for registration and having further concluded that under the facts and circumstances presented in this case the application should be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application of Monroe Gordon Piland, III, M.D. for registration under the Controlled Substances Act be, and it hereby is, denied [effective December 19, 1983].

Dated: November 10, 1983.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 83-30982 Filed 11-17-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13,579]

Adjustment Assistance; Clark Equipment Co., Jackson, Michigan; Revised Determination on Reconsideration

On November 1, 1983, the Department issued a Notice to Reopen the original investigation for workers and former workers of the Clark Equipment Company, Jackson, Michigan. This determination will be published shortly.

A company official called attention to the Department of Labor's recent certification of workers of Clark Equipment Company in Battle Creek, Michigan and asked the Department to reconsider its action denying trade adjustment assistance benefits for workers at the Jackson, Michigan plant of the Clark Equipment Company. The request was based on the integration of transmissions produced at the Jackson plant for industrial trucks manufactured at the Battle Creek plant. The Department denied trade adjustment assistance to workers at the Jackson plant on January 17, 1983 and sustained its decision on reconsideration on April 8, 1983. The decision documents were published in the **Federal Register** on January 28, 1983 (48 FR 4061) and on April 19, 1983 (48 FR 16778).

Findings in the investigative case file identify the articles produced at the Jackson plant as transmissions, torque converters and other components for road and off-the-road equipment. The Department later found on reconsideration that there was no basis for certification under the "integration of production" principle since none of Clark's domestic assembly plants to which the Jackson plant supplied components had workers covered by a current certification of eligibility to apply for adjustment assistance. The Department noted in its reconsideration that if such certification is made in the future pursuant to a recently received petition from Clark's Battle Creek, Michigan assembly plant, TA-W-14,512, further investigation of the degree of integration of the Jackson plant into company production facilities would be required to determine whether a coverage basis for the Jackson workers exists. On October 14, 1983 the Department certified all workers of the Battle Creek, Michigan plant of the Industrial Truck Division of the Clark Equipment Company who became totally or partially separated from employment on or after March 14, 1982.

On reconsideration, the Department found that the production of transmissions at the Jackson plant was substantially integrated into the production of import-impacted industrial forklift trucks in 1982 and in the last quarter of 1981. Production of transmissions decreased in 1982 compared to 1981 and decreased in November and December 1981 compared to the immediately preceding two months. Average employment at the Jackson plant decreased in the last quarter of 1981 compared to the immediately preceding quarter and declined in 1982 compared to 1981. Virtually all of the production workers at the Jackson plant were engaged in the production of transmissions in 1981, 1982 and 1983. Workers are not separately identifiable by product. The Jackson plant is scheduled to close on November 15, 1983.

U.S. imports of forklifts, in units, increased absolutely and relative to domestic shipments from 1980 to 1981 and relative to domestic shipments from 1981 to 1982. Clark Equipment's share of domestic consumption decreased from 1980 to 1981 and from 1981 to 1982. During the same period, imported forklifts captured an increasing share of domestic consumption.

In making the impact date for component workers at the Jackson plant prior to the impact date set for workers of the finished articles at Battle Creek, the Department makes the distinction between the impact date under the "one year rule" which prevailed in the Department's determination for workers at Battle Creek and the date at which imports adversely affected employment. Findings in the investigative case file show that workers at Battle Creek were adversely affected by imports up to five months before the Department's impact date of March 14, 1982 which went the full statutory one year limit in certifying workers petitioning under date of March 14, 1982. The union at Jackson filed an earlier petition on June 7, 1982 where the Department found substantial integration of production in 1982. On reopening, the Department found a substantial degree of integration of production as far back as October 1, 1981.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with forklifts produced at the Battle Creek plant of the Clark Equipment Company contributed importantly to the decline in sales and to the total or partial separation of workers and former workers at the Jackson, Michigan plant of the Clark Equipment Company. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

"All workers of Clark Equipment Company, Jackson, Michigan who became totally or partially separated from employment on or after October 1, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 8th day of November 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, Unemployment Insurance Service

[FR Doc. 83-31054 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,837]

Adjustment Assistance; Connecticut Foundry Co., Rocky Hill, Connecticut; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 18, 1983 in response to a worker petition received on July 14, 1983 which was filed on behalf of workers at the Connecticut Foundry Company, Rocky Hill, Connecticut.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of November 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-31056 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,742]

Adjustment Assistance; U.S. Steel Corp., Supply Division, Atlanta, Georgia Steel Service Center; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 20, 1983 in response to a worker petition received on June 6, 1983 which was filed by the United Steelworkers of America on behalf of workers at the Atlanta, Georgia Steel Service Center of the Supply Division of U.S. Steel Corporation.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of November 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-31055 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,733]

Adjustment Assistance; U.S. Steel Corp., Supply Division, Newark, New Jersey Steel Service Center; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 20, 1983 in response to a worker petition received on June 6, 1983 which was filed by the United Steelworkers of America on behalf of workers at the Newark, New Jersey Steel Service Center of the Supply Division of U.S. Steel Corporation.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of November 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-31057 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Sections 1952.210–1952.214 of Subpart O set forth the State's schedule for the adoption of Federal standards. By letters dated September 20, 1983 from Commissioner Dominic N. Fornaro, Maryland Division of Labor and Industry to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to: (1) amendments, additions, corrections and revisions to 29 CFR 1910.95(b)(3) as published in the **Federal Register** dated January 16, 1981 (46 FR 4161) and 29 CFR 1910.95 (c) through (p) and Appendices A through I as published in the **Federal Register** dated March 8, 1983 (48 FR 9776) pertaining to Occupational Exposure to Noise: Hearing Conservation Amendment; and (2) amendments, corrections and revisions to 29 CFR 1910.1025 Appendix D as published in the **Federal Register** dated March 8, 1983 (48 FR 9641) pertaining to Occupational Exposure to Lead: Respirator Fit Testing. These standards, which are contained in COMAR 09.12.31 Maryland Occupational Safety and Health Standards, were promulgated after public hearings on May 27 and July 22, 1983, pursuant to Article 89, section 30(a), 31(i), 31(l) and 31(m), Annotated Code of Maryland, and effective September 26, 1983.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; and Office of the Commissioner

of Labor and Industry, 501 St. Paul Place, Baltimore, MD 21202.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 18, 1983.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Philadelphia, PA this 20th day of October, 1983.

Linda R. Anku,

Regional Administrator.

[FR Doc. 83-31052 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-26-M

South Carolina Standards; Approval

1. *Background.* Part 1953 to Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated May 25, 1983 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: Corrections 29 CFR 1910.1025, Lead, Appendix D, dated March 8, 1983 (48 FR 964); Amendments 29 CFR 1910.95, Noise, dated March 8, 1983 (48 FR 9738).

These standards were promulgated after public hearings held on April 21, 1983 and filed with the South Carolina Secretary of State April 29, 1983, pursuant to Act 379, South Carolina Acts and joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The state standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal-State Operations, Room N3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 18, 1983.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 8th day of August 1983.

Alan C. McMillan,

Regional Administrator.

[FR Doc. 83-31051 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-26-M

Occupational Safety and Health Administration

Utah State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under the delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 20 CFR Part 1902. On January 10, 1973, notice was published in the **Federal Register** (38 FR 1178) of the approval of the Utah Plan and the adoption of Subpart E to Part 1952 containing the decision. The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory committee recommendation.

2. Publication in newspapers of general/major circulation with a 30 day waiting period for public comment and hearings.

3. Commission order adopting and designating an effective date.

4. Providing certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

Section 1952.113(e) sets forth the State's schedule for adoption of Federal Standards. By letter dated November 2, 1982 from Ronald L. Joseph, Administrator, Utah Occupational Safety and Health Division, to Byron R. Chadwick, Regional Administrator, and incorporated as part of the Plan, the State submitted rules and regulations concerning 29 CFR 1910.106 Flammable and Combustible Liquids (Delivery Nozzle) (47 FR 39161) published on Tuesday, September 7, 1982. These standards, which are contained in the Utah Occupational Saftey and Health Rules and Regulations for General Industry, were promulgated per the requirements of Utah Code annotated 1953, Title 63-46-1, and in addition,

published in newspapers of general/major circulation throughout the State. No public comments were received and no hearings were held.

The standards for 29 CFR 1910.106 Flammable and Combustible Liquids (Delivery Nozzle), were amended and adopted by the Industrial Commission of Utah, Archives File Number 5813, on October 18, 1982 and became effective on November 8, 1982 pursuant to Title 39–9–6, Utah Code annotated 1953.

2. Decision

The State submission having been reviewed in comparison with the Federal standard, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; Utah State Industrial Commission, UOSHA Offices at 160 East 300 South, Salt Lake City, Utah 84111; and the Office of State Programs, Room N–3700, 200 Constitution Ave., NW., Washington, D.C. 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

The standards were adopted in accordance with the procedural requirements of State law which permitted public comments, and further public participation would be repetitious. This decision is effective November 18, 1983.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 29 U.S.C. 667))

Signed in Denver, Colorado this 15th day of October, 1983.

Harry C. Borchelt,

Acting Regional Administrator.

[FR Doc. 83–31050 Filed 11–17–83; 8:45 am]

BILLING CODE 4510–26–M

Wyoming State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (herinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18 (c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.23(a)(2) or 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or a standard change which will make the State standards as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standards changes, the State has submitted by letters dated April 21, 1981, August 11, 1981, December 22, 1981, January 26, 1982, February 3, 1982, April 15, 1982, and September 2, 1982, from Donald D. Owsley, Health and Safety Administrator, to the Regional Administrator, stating that the State of Wyoming will incorporate as part of the plan, State Standards comparable to 29 CFR 1926.500(g) Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work, which was published in **Federal Register** (45 FR 75625), Friday, November 14, 1980. These standards, which are contained in the Wyoming Occupational Health and Safety Rules and Regulations for Construction, were promulgated after hearings held on October 2, 1981 and March 19, 1982 and by resolution adopted by the Wyoming Health and Safety Commission on April 8, 1982, pursuant to Section 27–278 Wyoming Statue 1957 as amended 1973.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

3. Location of supplements for inspection and copying

A copy of the letter, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; The Occupational Health and Safety Department, 604 E. 25th St., Cheyenne, Wyoming 82002; and the Office of State Programs, Occupational Safety and Health Administration, Room N–3700, 3rd and Constitution Ave., NW, Washington, DC 20210.

4. Public Participation

Under § 1953.2(c) of Title 29 CFR the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State Law, which included public comments, and further public participation would be unnecessary.

This decision is effective November 18, 1983.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed in Denver, Colorado, this 15th day of October, 1983.

Harry C. Borchelt,

Acting Regional Administrator.

[FR Doc. 83–31053 Filed 11–17–83; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefit Programs

[Application No. D–3485]

Cancellation and Rescheduling of Hearing for the Nassau County Carpenters' Vacation Fune (the Vacation Plan) Located in Westbury, New York

AGENCY: Pension and Welfare Benefit Programs; Labor.

ACTION: Notice of Cancellation and Rescheduling of Hearing.

SUMMARY: This document contains a notice of the cancellation and rescheduling of a public hearing with respect to an application filed on behalf

of the Vacation Plan. The application is for an exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The public hearing will allow persons who would be affected by the proposed exemption to present oral comments to the Department of Labor (the Department).

Background:

In the **Federal Register** of July 19, 1983 (48 FR 32893), the Department published a notice of public hearing with respect to the above referenced exemption application. The public hearing was scheduled to convene on Monday, October 3, 1983, at 10:00 a.m. in Room N-5437A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20216. The notice of hearing stated that the applicant was to provide a copy of the notice to interested persons by August 19, 1983.

On September 19, 1983, the applicant's representative informed the Department that notice of the hearing had not been distributed to interested persons in compliance with the hearing notice. Accordingly, the Department cancelled the hearing scheduled for October 3, 1983.

Because the Trustees have decided to pursue the exemption request, the hearing has been rescheduled as follows:

DATES: The hearing will be held on Monday, January 16, 1984 at 10 a.m. Persons who wish to present oral comments at the hearing shall submit a statement to that effect, which must be received by the Department on or before January 13, 1984.

ADDRESS: The hearing will be held in Room N-3437 A and B of the Department of Labor Building, 200 Constitution Ave., NW., Washington, D.C. 20216.

Statements and any written comments on the proposed exemption should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Hearing for Application No. D-3485. The application for exemption and the comments received will be available for public inspection in the Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held before the Department with respect to a proposed exemption from the restrictions of section 406 (b)(2) of the Act. The proposed exemption was requested in an application filed on behalf of the Vacation Plan, pursuant to section 408 (a) of the Act, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The proposed exemption, if granted, would permit transfers by the Vacation Plan of: (1) $200,000 in uncommitted reserves to the Nassau County Carpenters' Welfare Fund; and (2) $100,000 in uncommitted reserves to the Nassau County Carpenters' Pension Fund.

A Notice of Pendency of the proposed exemption was published in the **Federal Register** on Tuesday, November 30, 1982 (47 FR 53968). By means of the Notice of Pendency, interested persons were invited to submit written comments and requests for a public hearing with respect to the proposed exemption. Three comments containing requests for a public hearing have been received by the Department. Based on the requests, the Department has determined that a public hearing regarding the proposed exemption will be held on Monday, January 16, 1984, beginning at 10 a.m. in Room N-3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Any person who desires to present oral comments at the hearing and who wishes to be assured of being heard, shall submit a statement to that effect, indicating the amount of time he wishes to devote to his oral comments. Such statement and any written comments that such person wishes to be considered in conjunction with his presentation should be submitted to the address specified in **"ADDRESS"** above, within the time period set forth in **"DATES"** above.

An agenda will be prepared by the Department, containing the order of presentation of oral comments. Copies of the agenda will be available at the hearing. Information concerning contents of the agenda may be obtained on or after January 13, 1984 by telephoning the person whose name and number are shown above.

Ordinarily, ten minutes will be allowed each person for making an oral presentation. In addition, persons presenting such oral comments should be prepared to answer questions relating to the proposed exemption. At the conclusion of presentation of comments by persons listed on the agenda, other comments will be received to the extent time premits. The public hearing will be transcribed.

Notice to Interested Persons

By December 12, 1983, notice of the hearing will be given to all Plan participants and beneficiaries by mail, personal delivery or posting such notices at locations where participants work which are customarily used for providing information to employees. The notice will include a copy of this notice of hearing as it appears in the **Federal Register**.

Signed at Washington, D.C. This 15th day of November 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-31130 Filed 11-17-83; 8:45 am]

BILLING CODE 4510-29-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, December 1, 1983
Thursday, December 8, 1983
Thursday, December 15, 1983

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rates system and other matters pertinent to the establishment of prevailing rate under subchapter IV, chapter 53, 5 United States Code, as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature

disclosure of the matters discussed in the caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415, (202–632–9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

November 14, 1983.

[FR Doc. 83–31093 Filed 11–17–83; 8:45 am]

BILLING CODE 6325–01–M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Extension of Application Deadline Data

The deadline for application for a White House Fellowship has been extended from December 1 to December 8, 1983. Please call or write the President's Commission on White House Fellowships, 712 Jackson Place, NW. Washington, D.C. 20503, (202) 395–4522, for application materials and information.

James C. Roberts,

Director, President's Commission on White House Fellowships.

[FR Doc. 83–31094 Filed 11–17–83; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Reinstatement of Rule

Rule 6a–3.

No. 270–15.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval reinstatement of Rule 6a–3 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) which requires each registered or exempted exchange to supplement its application and annual amendments for registration as a national securities exchange, or for an exemption from such registration, by filing certain categories of information with the Commission. The potential affected entities are approximately 10 national securities exchanges.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, 202–395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: November 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–31141 Filed 11–17–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23112 (70–6898)]

Holyoke Water Power Co.; Proposal for Pollution Control Financing; Exception From Competitive Bidding

November 10, 1983.

Holyoke Water Power Company ("HWP"), One Canal Street, Holyoke, Massachusetts 01040, a subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 and requests an exception from competitive bidding pursuant to Rule 50(a)(5) on the basis that competitive bidding is inappropriate.

The Industrial Development Financing Authority of the City of Holyoke, Massachusetts ("Issuer"), intends to issue up to $15 million of tax-exempt pollution control revenue bonds ("Bonds") maturing not more than 20 years from the date of issuance. The Bonds would be issued under a trust agreement ("Trust Agreement"), between the Issuer, BayBank Trust Company ("Trustee"), HWP and Citibank, N.A. as co-registrar. Under a loan agreement ("Loan Agreement"), the proceeds would be loaned to HWP and would be used to pay or reimburse a portion of the cost of pollution control facilities of the Mt. Tom Plant. HWP would make payments corresponding to the principal, interest and premium, if any, on the Bonds as they become due and pay the fees and charges of the Issuer and the Trustee.

The Bonds would be of a kind generally known as Variable Rate Demand Bonds or Low Floater Bonds ("Low Floater Bonds") and used for short-term tax-exempt investments. HWP expects to derive significant interest savings and flexibility because of the variable interest rate and remarketability to the Bonds. The 1983 YTD average Low Floater rate was 4.92 percent as compared with the average 13-week Treasury Bill Rate of 8.44 percent, the average prime rate of 10.81 percent, the Bond Buyer index for 30-year tax-exempt bonds of 9.8 percent and the average 30-year Treasury Bonds rate of 10.62 percent.

The interest rate would be determined weekly by an agent ("Remarketing Agent") based on the most recent Kenny index, which is based on 30-day yield evaluations at par of the securities of at least 20 issuers of tax exempt securities of the highest credit rating. The Remarketing Agent would have the authority to adjust the interest rate within a range of 20% above and 20% below the most recently published Kenny index. HWP states that to date virtually all weekly rate settings have been at the specified index rate. If the Kenny index ceases to be available, the interest rate would be based upon 65% of the 13-week Treasury Bill Rate.

The Bonds may be converted at HWP's option to fixed interest rate bonds. The Variable Rate Bonds would be redeemable after December 1, 1984, at HWP's direction, in whole or even multiples of $1 million from time to time, at a price for variable rate bonds of 100% plus accrued interest. If converted to fixed rate obligations, the Bonds would be redeemable at any time at prices between 103% and 100% plus accrued interest.

Bondholders may tender the Bonds in multiples of $100,000 for purchase to the Remarketing Agent on any date. The Remarketing Agent would be obligated to use its best efforts to secure other

purchasers of Bonds having a principal amount equal to that of the Bonds being tendered. The initial Remarketing Agent is expected to be Citibank, N.A. which would be paid a fee of $.50 per $1,000 principal amount of the Bonds remarketed but not more than 1/32 of the Bonds per quarter, plus out-of-pocket expenses. If the Remarketing Agent is unsuccessful in selling the tendered Bonds, it may draw upon a letter of credit ("Letter of Credit") from Citibank for the funds required to pay the tendering bondholder.

The Letter of Credit could be drawn on up to the principal amount of the Bonds, plus $1 million to cover four months' interest on the Bonds and, to the extent not required for interest payments, to provide reimbursement to the Issuer, the Trustee, the co-registrar and the Remarketing Agent for any costs that might be incurred in enforcing their rights under various agreements. HWP would repay all amounts drawn under the Letter of Credit. Repayment would be made at the earlier of five years after the date of the drawing, the final maturity of the Bonds, or when the Bonds are remarketed.

During the three years following a drawing under the Letter of Credit, the interest rate thereon would, at HWP's election, be (i) Citibank's Alternate Base Rate, (ii) .75% above the Domestic Money Market Bid Rate; or (iii) the Reference Rate quoted at the time of the drawing. During the fourth and fifth years the interest rate, at HWP's option, be (i) .25% above the Alternate Base Rate of Citibank, (ii) 1.00% above the Domestic Money Market Bid Rate or (iii) at the Reference Rate. In the absence of certain required representations and warranties by HWP, repayment would be made at the earliest of one year after the date of the drawing, the final maturity of the Bonds or when the Bonds are remarketed, and interest would be at Citibank's Alternate Base Rate plus 1.00%.

The Letter of Credit matures ten years from the date of issuance, but can be extended by Citibank. If the termination date is not extended the availability of the Letter of Credit would be reduced by 20% of its original amount at the end of each of the two years prior to the termination date. This will require HWP to exercise its right of redemption to reduce the outstanding principal amount of the Bonds by an equal amount and to redeem the remaining 60% of the Bonds upon maturity of the Letter of Credit.

HWP will pay Citibank a one-time fee of .50% of the principal amount of the Bonds when the Letter of Credit issues and an annual commission of .75% of the amount available to be drawn thereunder. If all the bondholders would tender to the Remarketing Agent the $15 million of the Bonds and no remarketing could be effected for one year and the Company could not (or elected not to) give the required representations and warranties, the cost to HWP to draw under the Letter of Credit, would be 12.864% based on Citibank's Alternate Base Rate of 11.00% plus 1%, a Letter of Credit Fee of .787% and an Initial Placement Fee of .064%.

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 December 2, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-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, 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 an permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31148 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13625 (812-5680)]

ITB Empire Tax Free Income Fund, et al.; Filing of Application

November 14, 1983.

Notice is hereby given that ITB Empire Tax Free Income Fund and Investment Trust of Boston-Massachusetts Tax Free Income Fund (collectively, the "Applicants", 60 State Street, Boston, Massachusetts 02109 each of which is an open-end, non-diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on October 18, 1983, and an amendment thereto on November 7, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission exempting the Applicants from the provisions of Section 22(d) of the Act to the extent necessary or appropriate to permit certificate holders of certain unit investment trusts to invest dividend distributions received from such unit investment trust in shares of the Applicants with a reduced sales charge equal to 1½% of the public offering prices for shares of the Applicants. 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 text of the Act for the provisions thereof pertinent to a consideration of the application.

Applicants state that they have filed Registration Statements on Form N-1 under the Act and the Securities Act of 1933 which have not yet become effective. Applicants' investment manager, Mosely Capital Management, Inc., is a wholly-owned subsidiary of Mosely, Hallgarten, Estabrook & Weeden Holding Corporation, whose principal operating subsidiary is Moseley, Hallgarten, Estabrook & Weeden Inc. ("Mosely, Hallgarten") a full service New York Stock Exchange member firm. The principal underwriter for each of the Applicants is ITB Distributors, Inc. (the "Principal Underwriter"). ITB Empire Tax Free Income Fund is intended for New York investors seeking high current income exempt from federal income tax and New York State and City personal income taxes. Investment Trust of Boston-Massachusetts Tax Free Income Fund is intended for Massachusetts investors seeking high current income exempt from federal income tax and Massachusetts personal income taxes.

Applicants request an exemption from Section 22(d) of the Act to permit certificate holders of unit investment trust sponsored or co-sponsored by Mosely, Hallgarten or by other broker-dealers with which the Principal Underwriter has agreements pertaining to the sale of shares of the Applicants to such certificate holders, to invest dividend distributions recieved from such unit investment trusts in shares of the Applicants with the reduced sales charge equal to 1½% of the public offering prices for shares of the respective Applicants. The Applicants state that the proposed sale of their shares at reduced sales charges is intended to make such shares available at competitive prices to such investors in unit investment trusts. Since certificate holders of unit unvestment trusts have already received selling services, it is argued, either from an affiliate of the Principal Underwriter or from a dealer with which the Principal Underwriter has a dealer agreement, relating to an investment in a portfolio of tax exempt income producing securities in connection with their investment in the unit investment trust.

and since, it is further argued, such investors are independently seeking opportunities to reinvest dividend distributions, a lesser sales effort is required in order to obtain commitments to purchase shares of the Applicants. In addition, the application states that since such certificate holders have generally already paid a sales load when investing in a unit investment trust equivalent to that which an investor would initially pay when investing in shares of the Applicant, it is inappropriate to impose the full sales charge with respect to sales in connection with the reinvestment of unit investment trust dividend distributions.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 2, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31149 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-4027]

North American Royalties, Inc. Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

November 14, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex") and the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of North American Royalties, Inc. ("Company") is listed and registered on the Amex and the PSE. On October 19, 1983, the Company merged with RAN Merging Corporation and became a privately held corporation. As a result of the merger, the number of holders of record was reduced below 300.

Any interested person may, on or before December 6, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31147 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20363; File No. SR-AMEX-83-30]

Self-Regulatory Organization; Proposed Rule Change; American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "the Exchange") proposes to amend Rules 904 and 905 as set forth below. Italics indicate material proposed to be added; brackets [ ] indicate material proposed to be deleted.

Rule 904 Position Limits

Except with the prior written approval of the Exchange in each instance, no member or member organization shall effect, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, an opening transaction (whether on the Exchange or on another Participating Exchange) in an option contract of any class of options dealt in on the Exchange if the member or member organization has reason to believe that as a result of such transaction the member or member organization or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate position in option contracts (whether long or short) of the put class and the call class on the same side of the market covering any underlying security in excess of:

(i) [No change.]

(ii) [No change.]

(iii) [No change.]

(iv) a number of contracts covering, in the aggregate, [$500,000,000] *$1,000,000,000* principal amount of underlying Treasury bills with terms to maturity of 13 weeks, or covering, in the aggregate, [$250,000,000] *$500,000,000* principal amount of underlying Treasury bills with terms to maturity of 26 weeks (i.e., if the underlying principal amount of each 13-week contract is $1,000,000 or each 26-week contract is $500,000, the position limit is [500] *1,000* contracts; if the underlying principal amount of each 13-week contract is $200,000 or each 26-week contract is $100,000, the position limit is [2,500] *5,000* contracts); or

(v) [No change.]

(vi) [No change.]

. . . Commentary

[No change.]

Rule 905 Excercise Limits

Except with the prior approval of the Exchange in each instance, no member or member organization shall exercise, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in excess of:

(i) [No change.]
(ii) [No change.]
(iii) [No change.]
(iv) a number of contracts covering, in the aggregate, [$500,000,000] *$1,000,000,000* principal amount of underlying Treasury bills with terms to maturity of 13 weeks, or covering, in the aggregate, [$250,000,000] *$500,000,000* principal amount of underlying Treasury bills with terms to maturity of 26 weeks (i.e., if the underlying principal amount of each 13-week contract is $1,000,000 or each 26-week contract is $500,000, the exercise limit is [500] *1,000* contracts; if the underlying principal amount of each 13-week contract is $200,000 or each 26-week contract is $100,000, the exercise limit is [2,500] *5,000* contracts);
(v) [No change.]
(vi) [No change.]

. . . Commentary

[No change.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to increase position and exercise limits for Treasury bill options from their current amounts, $500,000,000 or 500 contracts for $1,000,000 13-week Treasury bills (and $250,000,000, or 500 contracts for $500,000 26-week Treasury bills) to $1,000,000,000, or 1,000 contracts for $1,000,000 13-week Treasuray bills (and $500,000,000 also 1,000 contracts, for $500,000 26-week Treasury bills).

Current position and exercise limits restrict the hedging ability of investors. Experience has indicated that single transactions in excess of $100 million underlying principal amount have not been unusual. At least one Treasury bill option holder is already approaching the 500 contract position limit. Others are expected to follow.

The increased activity in the options market may be due to the increased size of the auctions, activity in the cash market, and recently increased interest rate fluctuations. Thus, an increase in the position and exercise limits would provide option holders with greater freedom in directing investments in consideration of market trends.

In October 1981, when the Commission approved the Exchange's Treasury option program, the total amount of auction bids accepted for 13 and 26-week Treasury bills was approximately $9 billion dollars.[1] On June 30, 1983, the total aomunt of auction bids accepted for 13 and 26-week Treasury bills was $12,440,200,000.

Since Treasury bill issues are extremely large and widely held, it is unlikely that the proposed increases in position and exercise limits will enable individuals to influence price activity in the Treasury bill cash market. The Exchange believes that the depth and liquidity of the Treasury bill options market will be enhanced by an increase in position and exercise limits.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that it provides more realistic position and exercise limits in light of current Treasury auctions, and market activity.

Therefore, the proposed rule change is consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of the publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31133 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

[1] For example, on October 1, 1981 the total amount of auction bids accepted was $9,019,300,000.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20362; (SR-CBOE-80-16)]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change on a Summary and Temporary Basis

November 10, 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 November 10, 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 and additional information from CBOE.[5] The Commission also solicited and evaluated public comment upon the proposed rule change.[6]

Further information had been received 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*.[7] The Commission expects to act soon with respect to the proposed in-person rule. In the interim, it will be necessary for the Commission to extend for an additional 30 days its summary and temporary approval of those portions of the proposed rule change not at issue in *Clement*.

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commisssion, 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 Commisssions'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 December 12, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31146 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

[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. *Securitioes 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); 20082 (August 12, 1983), 48 FR 37755 (1983); and 20228 (September 23, 1983), 48 FR 44962 (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 November 1982 are discussed in Securities Exchange Act Release Nos. 19385 (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] *See* letter of Anne Taylor, Secretary and Associate General Counsel, CBOE, to Kevin Fogarty, Division of Market Regulation, Securities and Exchange Commission, September 22, 1983. File No. SR-CBOE-80-16.

[Release No. 20369; File No. (SR-MSRB-83-16)]

Self-regulatory Organizations; Municipal Securities Rulemaking Board; Filing and Immediate Effectiveness of Proposed Rule Change

November 14, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given the on October 17, 1983, the Municipal Securities Rulemaking Board ("MSRB") 1120 Connecticut Avenue, NW., Washington, D.C. 20006, filed with the Securities and Exchange Commission the proposed rule change (SR–MSRB–83–16) as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change interprets MSRB Rule G–17 to require a municipal securities broker or municipal securities dealer to deliver municipal securities sold to cutomers promptly. In its interpretation, the MSRB states that the duty to make prompt delivery could be violated if a municipal securities broker or municipal securities dealer sold securities to a customer knowing that prompt delivery could not occur by the specified settlement date or within a reasonable time thereafter and failed to disclose that fact to its customer. MSRB Rule G–17 sets forth the requirement that a broker, dealer, and municipal securities dealer deal fairly with all persons and not engage in any deceptive, dishonest, or unfair practice The MSRB adopted the proposed rule change pursuant to Section 15B(b)(2)(c) of the Act in response to inquires from purchasers of municipal securities and comments from the Commission concerning the duty under the MSRB rules to promptly deliver securities to customers.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.**

Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-83-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

George A Fitzsimmons,

Secretary.

[FR Doc. 83-31145 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20365; (File No. SR-MSRB-83-13)]

Self-Regulator Organizations; Order Approving Proposed Rule Change of the Municipal Securities Rulemaking Board

November 14, 1983.

I. Introduction

The Municipal Securities Rulemaking Board (the "MSRB") filed a proposed rule change on September 7, 1983,[1] under the Securities Exchange Act of 1934 (the "Act"),[2] concerning clearance and settlement of municipal securities transactions. Generally, the proposed rule change would require use of clearing agency facilities to accomplish various tasks, including comparison of inter-dealer trades; confirmation and acknowledgement of customer trades; and settlement of related delivery and payment obligations by book-entry. The proposed rule change would apply to municipal securities brokers, dealers and their clearing agents, as well as municipal securities investors and their securities custodians.[3]

The proposed rule change would become effective in two stages. After August 1, 1984, for trades subject to the Rules, comparison of inter-dealer trades and confirmation and affirmation of customer trades through clearing agency facilities would be mandatory. After February 1, 1985, those trades would be required to be settled through the book-entry facilities of registered securities depositories.

The proposed rule change was developed through extensive public discussion of appropriate clearance and settlement procedures for municipal securities transactions. The specific dialogue concerning mandatory clearing agency use began when the MSRB published a draft of the proposed rule change in July 1982. That draft concerned only the settlement of dealer-customer obligations, but drew 24 comment letters.[4] In March 1983, The MSRB solicited further comment on that proposal and on a proposal concerning use of clearing agency facilities for comparison and settlement of inter-dealer trades. The MSRB received 27 comment letters on the March 1983 draft, as well as three comment letters after September 7, 1983. Those comments generally discussed the need to implement the proposed rule change in stages and the need for uniform clearing agency systems specifically tailored to municipal securities. All comments addressed to the MSRB were filed with and reviewed by the Commission. The Commission solicited written comment on the proposed rule change as filed on September 7, 1983, but received none.

As discussed below, the Commission has determined to approve the proposed rule change.

II. Background

Currently, the majority of the 15,000-20,000 transactions in municipal securities that occur daily are processed in much the same way the securities industry processed trades in corporate debt and equity securities issues during the 1950's and 60's.[5] Dealer trade reports, customer confirmations and institutional settlement instructions are produced manually on paper and are sent by mail to the appropriate parties. Thereafter, settlement occurs in many different locations daily, through the physical exchange of securities certificates versus money.

Securities industry reliance on paper and manual processing terchniques for corporate securities transactions led to paperwork crises in the late 1960's, which in turn caused the failure of many securities firms and significant investor losses.[6] Problems for the municipal securities industry at that time, however, were much less apparent—for two reasons. First, significantly lower secondary market trading volume in municipal securities meant less presssure on the industry's municipal firms' back-offices. Second, historically, municipal securities certificates have been issued primarily in bearer-form, rather then registered-form. Thus, delivery of certificates to settle secondary market trades has been possible without the need to transfer record ownership, and efficient interest collection has not depended on transferring record ownership by record date.

The recent increase in the number of municipal securities issues in registered-form[7] and in secondary market activity for all securities issues, necessarily increases the risk of back-office delays in processing municipal securities transactions. The municipal securities industry is unaccustomed, generally, to the use of registered instruments and to the recordkeeping and other functions of transfer agents and registrars. Increased secondary market activity, therefore, will likely aggravate the delays and inefficiencies inherent in the industry's physical securities processing systems for registered-form municipal bonds. The MSRB and many industry members recognize that the proposed rule change, by promoting efficient processing and timely settlement of certain municipal securities transactions through automated facilities,[8] should help preclude crises.

---

[1] *See* Securities Exchange Act Release No. 20189 (September 16, 1983), 48 FR 43470 (September 23, 1983).

[2] 15 U.S.C. 78s(b)(1); 17 CFR 240.19b-4 (1983).

[3] The rule change, however, would apply to those entities only if they participate directly or indirectly in clearing agencies registered under the Act.

[4] Commenters, while supporting the MSRB's proposal, emphasized three areas of concern: (1) The limited number of municipal securities issues currently eligible for clearing agency services; (2) the difficulty of identifying customers as depository participants; and (3) the need to bring settlement of inter-dealer trades within the same timeframe as customer-side settlement.

[5] *See* Securities and Exchange Commission, Study of Unsafe and Unsound Practies of Brokers and Dealers, H.R. Doc. No. 231, 92nd Cong., 1st Sess. 28 (1971).

[6] *Id.*

[7] The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") requires that security issues with maturity dates of more than one year be in registered-form to retain federal income tax-exempt status. Thus, after July 1, 1983, virtually all long-term municipal securities issues are likely to be in registered-form.

[8] Recently, the National Association of Securities Dealers, Inc. (the "NASD") and various national stock exchanges adopted rules similar to that

Continued

III. Description of the Proposed Rule Change

The proposed rule change would amend MSRB Rule G–12 concerning comparison,[9] clearance and settlement of interdealer tades; and MSRB Rule G–15 concerning confirmation, affirmation [10] and settlement of customer delivery and payment obligations. As explained below, the two rules together would require clearing agency participants to use clearing agency facilities for tasks associated with both street-side and customer-side settlement.

The rules define "participation" broadly to encompass both direct and indirect clearing agency participation. Neither rule mandates direct participation in a registered clearing agency nor do they require participation in any particular depository or clearing corporation. However, a non-participant dealer or institution whose clearing agent or securities custodian participates in a registered clearing agency generally would be subject to these rules.

Phase I: Comparison, Confirmation and Affirmation of Participant Trades

As of August 1, 1984, municipal securities dealers, brokers and customers that participate in registered clearing agencies will be required, in effect, to use the facilities of a registered clearing agency to compare, confirm and affirm their municipal securities transactions. Trades covered by the rules include all transactions in municipal securities issues that are assigned CUSIP numbers.[11]

MSRB Rule G–12 would require municipal securities brokers and dealers to use the automated facilities of a clearing agency for the comparison of their inter-dealer trades if they, or their agents, participate in a registered clearing agency that provides comparison services. The parties to such an inter-dealer trade would be required to submit trade data and other information to the clearing agency for comparison in accordance with the clearing agency's rules. Parties to an inter-dealer trade that participate in different clearing agencies would not be exempt from the rule if the clearing agencies are interfaced or linked with one another for comparison purposes. Similarly, parties to an inter-dealer trade that participate in a securities depository that is linked or interfaced with a clearing corporation that provides linked comparison services would be subject to the Rule.

MSRB Rule G–15 would prohibit participating municipal securities brokers or dealers from settling trades against payment ("COD/DVP")[12] with their customers, whenever the customers or their agents participate in a registered securities depository, unless certain conditions are met. First, the dealer must obtain from the customer prior to or at the time of accepting a COD/DVP trade order certain information necessary to identify the customer, its settlement agent or custodian, and the customer's account with the agent. Second, the dealer, customer, and settlement agent, as appropriate, must use the facilities of a securities depository to confirm and affirm transactions in municipal securities issues assigned CUSIP numbers.[13] The MSRB would exempt from this Rule, however, internal trades of a dealer-bank department.[14]

Phase II: Book-entry Settlement

Effective February 1, 1985, the proposed rule change would require affected persons to settle by book-entry, through the facilities of a registered clearing agency, certain transactions in municipal securities issues that are depository-eligible. A "depository-eligible security" is an issue of securities that is eligible for safekeeping and book-entry transfer services in a registered securities depository.[15]

Thus, MSRB Rule G–12 would require municipal securities dealers and brokers to settle, by book-entry movement, all inter-dealers transactions in depository-eligible municipal securities issues if those transactions are successfully compared through the facilities of a registered clearing agency. Although settlement must occur by book-entry movement, participants will not be required to settle trades through any particular clearing agency accounting operation.[16] Accordingly, participants

---

proposed by the MSRB requiring use of registered securities depositories for the processing and book-entry settlement of certain customer-side trades in corporate securities. Adoption of these rules was recommended by a Joint Committee of the Operations Committee of the Securities Industry Association (the "SIA") and the New York Stock Exchange, Inc. (the "NYSE") to insure efficient processing of securities transactions, particularly during periods of high volume trading. *See* Securities Exchange Act Release No. 19227 (November 9, 1982) 47 FR 51658 (November 16, 1982).

[9] "Comparison" is the process by which brokers and dealers match trades executed in the marketplace. Daily, each broker and dealer compares information about executed purchases and sales. If the relevant terms of the trade match, the two parties have a contract. If the parties report different information respecting a trade, the parties must resolve those differences before the trade can be settled.

[10] The "confirmation and affirmation" process is similar to the comparison process. In a typical institutional trade, an investment manager instructs a broker to execute a trade. After executing the trade, the broker sends the terms of the trade to the institutional customer or its investment manager. If the confirmation matches the customer's instructions to the broker, the customer will issue an affirmation to the custodian bank authorizing it to receive or deliver securities against payment to or by the executing broker.

[11] The CUSIP Service Bureau automatically assigns CUSIP numbers to municipal securites issues with greater than one year to maturity and a total principal amount greater than $500,000. [A CUSIP number may be assigned to an issue with a total principal amount less than $500,000 upon request.] Currently, over one million long-term municipal securities issues have been assigned CUSIP numbers. This represents more than 20 times the number of corporate issues assigned CUSIP numbers. *See Prospects for Automation of Municipal Clearance and Settlement Procedures*, MSRB Reports (April 29, 1983), at 11, n.1.

[12] Federal credit regulations require customers to settle securities transactions with their brokers no later than seven business days following execution. Federal credit regulations extend this time limit to thirty-five days for those customers who establish special cash accounts and who agree to settle purchase against the delivery of securities (cash-on-delivery—"COD") or to settle sales upon payment (delivery-versus-payment—"DVP"). *See* 12 CFR 220.4(c) (1982).

[13] *See* note 11, *supra*. Under this rule, the municipal securities broker or dealer also must: (i) Identify such transactions as DVP or RVP transactions on the trade ticket; (ii) send the confirmation to the customer not later than the first business day following trade date; and (iii) obtain a representation (written or oral) from the customer that instructions regarding the transaction will be transmitted to the customer's settlement agent.

[14] Thus, this Rule would not require a dealer-bank or its non-participant customer to use the automated facilities of a clearing agency for the confirmation, affirmation and book-entry settlement of any customer-dealer obligation when both parties use a department of the dealer-bank as their agent. *See* MSRB letter to Robert V. Slater, Second Vice President, The Northern Trust Comapny (September 21, 1983) in File No. SR–MSRB–83–13.

[15] Currently, all registered securities depositories offer safekeeping and ancillary services for registered-form municipal securities. However, only some offer those services for bearer-form municipal securities. *See* note 36, *infra*.

[16] Several types of accounting systems are used by clearing corporations. The most sophisticated accounting system is the Continuous Net Settlement ("CNS") system, which gnerates a single, daily net "buy" or "sell" position for each securities issue in which a participant has compared trades scheduled to settle on the fifth day after trade date and nets accumulated settlement obligations in that issue. The system severs the link between the original parties to the compared trades and interposes the system as the *contra* party. Accordingly, the clearing corporation's CNS system, rather than the original parties to the trade, becomes the entity obligated to deliver or receive securities and money. Unlike CNS systems, daily balance order ("DBO") systems traditionally have not interposed clearing corporations between parties. Instead, a DBO system generates a daily net "buy" or "sell" position for each issue of securities in which a participant has a compared trade due to settle, and allocates among, and issues to, participants net daily settlement orders to deliver or receive. As a result of the netting cycle, a participant may be required to deliver securities to, or receive securities from, a participant with which it had no direct trades.

may provide standing instructions to settle on a trade-for-trade basis.[17]

MSRB Rule G–15 would require certain municipal securities brokers or dealers and their customers to settle, by book-entry, through the facilities of a registered securities depository,[18] COD/DVP transactions in depository-eligible municipal securities issues. The proposed rule change, however, would not require securities to remain on deposit after settlement.[19]

IV. Discussion

A. Why Automate Processing and Immobilize Certificates?

All parties to a municipal securities transaction subject to the Rules should realize significant cost savings by clearing transactions electronically, settling obligations by book-entry, and immobilizing municipal securities certificates in depositories.[20] The savings inherent in automated trade processing should extend to bearer-form as well as registered-form instruments, although the benefits of immobilizing bearer-form certificates may be narrower. Moreover, safekeeping and processing economies and efficiencies should be enjoyed by all parties subject to the Rules.

Automated trade processing should assure timely settlement of securities transactions and reduce settlement financing costs by expediting the transmission of trade reports, confirmations and affirmations.[21] Moreover, by eliminating repetitive preparatory tasks, automated processing should enhance the accuracy of trade information and increase the number of trades settling in a timely and predictable manner. As a result, municipal securities industry members should realize significant cost savings as labor and research expenses decline, as dependence on the mail is reduced, and as delayed or lost trade documents are eliminated.

Similarly, book-entry settlement should reduce aggregate costs for the municipal securities industry by reducing the number of physical deliveries.[22] Since book-entry movements only require physical deliveries of securities in connection with deposits in and withdrawals from the depository, investors, brokers and dealers subject to the Rules should be able to avoid repetitious physical movements of securities. In addition, clearing agency participants can share economies and efficiencies that result from depositories' bulk shipments and special arrangements between depositories and transfer agents for expedited turnaround of transfer requests. Savings in certificate-related expenses should be particularly significant for registered-form municipal securities issues. Moreover, reduced physical deliveries of registered and bearer-form municipal securities certificates should enhance certificate safety and reduce costs associated with certificate loss. Finally, book-entry settlement through the various interfaces should facilitate trading and settlement without regard to the parties' geographic location. One Account Settlement saves participants unnecessary fees for participation in and use of more than one depository and promotes timely and efficient clearance and settlement.[23]

Increased use of book-entry settlement pursuant to the proposed rule change should encourage participants to immobilize municipal securities certificates in securities depositories. In the corporate area, depositories have provided cost-efficient vault facilities and ancillary services[24] for registered-form certificates. Such certificates can be handled efficiently in a fungible bulk, through the safekeeping of "jumbo" certificates[25] registered in nominee name.[26]

B. Why should the MSRB Facilitate Automation in Clearance and Settlement?

The proposed rule change reflects an important step in the MSRB's continuing efforts to facilitate improvements in the industry's securities transaction processing. As discussed in a recent MSRB Report, *Prospects for Automation of Municipal Securities Clearance and Settlement Procedures*,[27] the MSRB during the last two years has used its rulemaking authority to advance the prospects for uniform national practices and procedures among disparate markets.[28] Furthermore, that Report

---

[17] Many municipal securities dealers attempt to preserve confidentiality about their trading activities through the use of "broker's brokers". In a traditional Balance Order System, however, broker's brokers can net to zero, leaving municipal securities dealers to deliver securities to and receive payments from securities dealers they, in effect, ultimately "traded with" through the brokers' broker. For that reason, among others, municipal securities dealers historically have settled "trade-for-trade" with their broker's broker when circumstances required. Currently, NSCC does not plan to provide DBO services for the settlement of municipal securities transactions. *See infra*, note 32.

[18] The Depository Trust Company ("DTC") operates an automated settlement system for institutional transactions (the "ID system") in corporate securities issues. The ID system coordinates among certain brokers, investment managers and custodian banks participating in the system all the tasks that must be accomplished to effect customer-side settlement of these corporate securities transactions. In cooperation with DTC, the Midwest Securities Trust Company ("MSTC"), Pacific Securities Depository Trust Company ("PSDTC") and Philadelphia Depository Trust Company ("Philadep") offer their participants similar services through the National Institutional Delivery Systems. *See* discussion *infra* concerning the expansion of this service to municipal securities brokers, dealers customers, and their agents.

[19] This appears to be consistent with those state laws that are interpreted to require certain institutional investors, such as insurance companies, to maintain their assets within the state. *See e.g.*, FLA. STAT. ANN. § 628.281 (1978).

[20] The Commission recognizes that there are, inevitably, costs associated with mandating more extensive use of computerized facilities for data processing and communication systems. Under the Act, any such costs to the industry must be reviewed in light of several statutory goals and may be balanced against industry cost savings. *See* Sections 15B and 17A of the Act and discussion *infra*.

[21] Mailing paper confirmations, affirmations and comparisons can delay receipt of documents necessary for settlement. In turn, such delays can cause settlement agents to reject tendered securities or withhold payment for securities ("DK's"), causing delayed settlement on the customer-side and unnecessary finance charges. The Joint Committee estimated that NYSE trades DK'd on the customer-side cost the corporate securities industry more than $100 million in finance charges, in 1980.

[22] To the extent municipal securities brokers and dealers use the CNS System, the netting process will reduce the number of actual deliveries necessary, thereby further reducing costs.

[23] One Account Settlement—a basic feature of the National Clearance and Settlement System—permits a participant to settle all its trades through one clearing corporation or depository, regardless of the place of execution, recordation, and comparison of the trades.

[24] Income accounting (*i.e.*, the collection and processing of interest and maturity payments) is an important ancillary service for dspository-eligible issues.

[25] For reasons of safety and economy, depositories generally consolidate the certificates received in each issue by requesting from the transfer agent several large denomination certificates. The particular denominations maintained on deposit depends, primarily, on participant demand for certificates. (Depositories often elect to put interchangeable issues into registered-form for this reason).

[26] The cost of immobilizing bearer-form certificates in securities depositories, of course, may be high relative to registered-form certificates and, at least initially, relative to other custodial alternatives. Higher depository fees result, in part, from the need to clip and present coupons to the paying agent prior to collecting interest payments and to provide more storage space for certificates with coupons attached. However, once the number of depository-eligible municipal securities issues in bearer-form grows, significant certificate immobilization by participants could help create certain economies at the depository that all participants can share. In any event, for municipal securities dealers with relatively small inventories and high transaction volume, depository immobilization would provide benefits and economies that likely exceed ex-clearing processing costs.

[27] *See* note 11, *supra*.

[28] *See e.g.*, MSRB Rule G–12 (uniform practice respecting: dealer confirmations; comparison and verification of confirmations; delivery of securities;

Continued

notes that "major progress has been made in developing appropriate systems and preparing the industry for the transition to automated clearance. . . . The rule changes [under consideration here] will result in the inclusion of large numbers of transactions in such systems." [29]

The Commission believes that the proposed rule change is a timely and appropriate exercise of the MSRB's rulemaking responsibility.[30] Promoting back-office efficiency is an appropriate goal of Self-Regulatory Organization ("SRO") rule-making authority, particularly in light of traditional industry emphasis on front-office execution activities. The MSRB initiative in this area is in keeping with other recent SRO initiatives that the Commission encouraged and approved,[31] and should generate important economies in both trade and certificate processing. As the MSRB noted in both its filing and its recent Report, the "registered-form" requirement of TEFRA creates a special need for automated processing of these securities.

The MSRB further suggests that its proposed rule change is consistent with Section 17A of the Act and, in particular, with the Congressional finding set forth in Section 17A(a)(1) of the Act, which encourages "the linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement [because it] will reduce unnecessary costs and increase the protection of investors behalf of investors."

The SRO's have used their legislative authority to an even greater extent in other contexts. For example, the NASD has required certain NASDAQ market-makers to use the clearance and settlement facilities of registered clearing agencies. *See* NASD Manual (CCH) #1653A, Securities Exchange Act Release No. 19689 (April 26, 1982), 47 FR 19500 (May 5, 1982).

In addition, the MSRB has provided ample time for industry education and preparation before the effective dates of the proposed rule change. Under the rules, for example, municipal securities brokers and dealers will need to develop or modify their internal operations to accommodate automated processing and book-entry settlement through clearing agencies. More importantly, the registered clearing agencies will need to complete system and interface enhancements promptly, so that the objectives of the proposed rule changes can be met. As discussed below, the Commission expects the MSRB to continue to monitor closely industry and clearing agency efforts under these amendments.

C. Current and Prospective Clearing Agency Systems Provide a Foundation for Safe and Efficient Clearance and Settlement Under the Rule Change

Currently, only NSCC provides comparison services for registered and bearer-form municipal securities. The Commission understands that NSCC, in the next several months, will establish a national system for the comparison of municipal securities transactions in issues that have been assigned CUSIP numbers (the "National Trade Comparison System for Municipal Bonds").[32] Initially, MCC and DTC plan to establish "links" to NSCC to access the comparison services of this national system for their respective participants. The Commission urges all other clearing agencies (directly or through NIDS, as appropriate) to establish effective links to NSCC for the national comparison system. Ideally, these arrangements should be concluded well in advance of the Phase I implementation date (August 1, 1984).

As noted above, all depositories currently offer confirmation and affirmation services through a National Institutional Delivery System ("NIDS"), for which DTC is the facilities manager. NIDS provides these services for corporate debt, equity, registered and bearer-form municipal securities issues. For those issues which are eligible for depository settlement, the depositories also provide, through interfaces, book-entry services nation-wide. Although use of NIDS, as it currently operates, would permit participants to satisfy the MSRB Rules, the Commission understands that limited modifications are being contemplated to accommodate more effectively the unique characteristics of municipal securities issues.[33]

The registered securities depositories also provide a broad range of depository services for most registered-form municipal securities. Only DTC and MSTC, however, safekeep bearer-form municipal securities: [34] DTC at its central facility in New York and MSTC at a network of regional custodians. The Commission understands that MSTC and DTC anticipate extending their current depository interfaces to accomodate book-entry movements of both bearer and registered-form municipal securities issues. The Commission believes that effective interfacing is crucial if participants are to realize the benefits inherent in "One Account Settlement." [35] Therefore, the Commission urges DTC and MSTC to complete their arrangements promptly. The success of the MSRB rule change depends critically on earnest cooperation among clearing agencies and between the clearing agencies and the MSRB.[36]

---

payment; rejection and reclamation; close-out; good faith deposits; and settlement of syndicate accounts), MSRB Manual (CCH) ¶ 3556 (April 1983); MSRB Rules G-12(c)(v)(F), G-15(a)(vii) (mandatory use of CUSIP numbers on dealer confirmations), MSRB Manual (CCH) ¶¶ 3556, 3571 (April 1983).

[29] MSRB Report, at 45.

[30] In its filing, the MSRB notes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which directs the MSRB to propose and adopt "rules designed . . . to foster cooperation and cordination with persons engaged in regulating, clearing, settling processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest."

[31] *See, e.g.*, Securities Exchange Act Release No. 19227 (November 9, 1982), 47 FR 51658 (November 16, 1982) (approval of Exchange and NASD rules requiring depository participants to use depository facilities for customer-side settlement of certain institutional trades).

[32] The National System will operate in a manner similar to the National OTC Equity Comparison System for corporate securities issues, for which NSCC is also the central processor. NSCC does not intend at the present time to offer its participants access to the NSCC balance order system because of the reluctance of municipal securities dealers to use netting systems. NSCC believes that municipal securities brokers and dealers would prefer to settle on a trade-for-trade basis to avoid (i) the netting of transactions, which can entail disclosing the parties actually trading, and (ii) partial deliveries of securities, which, under current MSRB Rules, is not mandated. *See* Participant Report, National Securities Clearing Corporation, No. 16 (October 30, 1983).

NSCC, however, will offer a "Comparison Only" mode for transactions in securities that are not depository-eligible. For these inter-dealer transactions successfully compared at NSCC, however, the resulting delivery obligation may be settled physically, through NSCC's "Envelope" services. (NSCC has a New York City envelope service that consists of a central location where participants can drop off envelopes containing securities and have those envelopes delivered to another participant; NSCC also provides an inter-city envelope service that ships envelopes, by courier, between New York City and several regional locations.)

[33] For example, DTC contemplates establishing a separate, more extensive field on the computer-generated confirmation and affirmation forms to capture important descriptive information (*i.e.*, maturity date, issue purpose).

[34] DTC makes eligible for deposit over 40,000 municipal securities-issues, of which approximately 35,000 are in bearer-form. MSTC makes depository-eligible approximately 123,000 eligible municipal securities issues in bearer-form and approximately 35,000 in registered-form. PSDTC recently initiated a pilot link to MSTC's bearer bond program to offer PSDTC participants the full range of MSTC services. *See* File No. SR-PSDTC-83-3, Securities Exchange Act Release No. 19802 (May 23, 1983), 48 FR 24504 (June 1, 1983).

[35] *See supra*, note 23.

[36] Many commenters noted that the current depository-eligibility standards should be made

Continued

The Commission believes that current clearing agency systems provide a foundation for the proposed rule change and for safe, efficient clearance and settlement of municipal securities transactions. The Commission also believes that these systems, if modified and expanded by the clearing agencies and used by their participants, will remove the paper processing shackles that can constrict the municipal securties markets and will prepare active market participants for the sustained high volume trading of the 1980's and beyond.

D. General Business Impact and Competitive Considerations

In light of the flexibility afforded municipal securities brokers, custodian banks, investment managers and most municipal securities dealers, the Commission believes that the proposed rule change does not impose any inappropriate or unnecessary costs on the parties to such trades. The Rules, as a general matter, do not require persons to join clearing agencies, but merely require existing clearing agency "participants" to use the most efficient industry means for clearance and settlement.

The Commission recognizes, however, that industry participants subject to the Rules may incur substantial start-up costs. For instance, municipal securities brokers and dealers will incur costs in connection with identifying accounts which are subject to Rule G–15 and devising procedures to capture and convey to the depository crucial data such as the identity of the customer and agent bank. Similarly, custodian banks and investment managers will incur new costs in connection with the distribution of confirmations.

The Commission believes that the benefits derived from widespread, uniform and safe automated processing of institutional and inter-dealer trades far outweigh the compliance-related expenses. As indicated, the expenses are, for the most part, one-time implementation or start-up costs. The benefits, however, should be realized continuously over time. For instance, brokers, dealers and custodian banks ultimately should experience reduced aggregate transaction processing expenses.[37] Similarly, institutional customers or their investment managers will enjoy increased predictability and efficiency in clearance and settlement, and they may experience reduced commission expenses as a result of broker and dealer cost savings.[38]

The Commission also believes the MSRB has provided appropriate and sufficient lead time for firms to make any needed systems and personnel changes. Indeed, prior to August 1, 1984, many industry members should be able to draw upon their experience with automated customer-side processing of corporate equity and debt securities transactions.[39] Moreover, several compliance alternatives are available to persons subject to the Rules. For instance, a municipal securities broker or dealer may choose to establish a correspondent relationship with another participating broker-dealer, in lieu of direct clearing agency participation.[40] A participating broker or dealer, on the other hand, may avoid the expense of installing and operating an internal computer system by submitting "hard copy" trade data to a depository (i.e., paper)—assuming that is a cost-effective alternative in light of that participants's settlement volume. Similarly, custodian banks may obtain from institutional customers standing instructions to affirm trades on behalf of a non-depository participant investment manager, thereby reducing such banks' ID expenses.

Finally, the Commission has considered the potential competitive burdens of the proposed rule change in light of the relevant benefits and costs, discussed above. In this regard, the Commission acknowledges that depositories compete to some extent with custodian banks and brokers for the sales of custodial services. For the reasons discussed in Securities Exchange Act Release No. 19227, however, the Commission believes the proposed rule change will not impose any inappropriate burden on competition in the sales of custodial services.[41] The Commission also believes that, as the MSRB stated in its filing, the proposed rule change does not

uniform by the Phase II implementation date (February 1, 1985). Currently, eligiblity criteria vary substantially between MSTC and DTC: MSTC will accept for deposit, upon participant request, almost any municipal securities issue while DTC requires, among several other things, that the issue have a transfer agent whose performance is consistent with the Commission's 72 hour turnaround standard. (*See* 12 CFR 240.17Ad–2.)

The Commission understands that the rule will not require sole participants of different depositories to settle, by book-entry, transactions in securities issues that are not eligible for deposit at both depositories. Nonetheless, differing eligibility criteria could limit the value of the rule and the National Clearance and Settlement System by forcing settlement of such trades to occur outside clearing agencies. Differing eligibility criteria, coupled with the economic benefits of clearing agency participation, could pressure sole participant to join multiple depositories or to at least join the depository with the greatest number of eligible securities issues.

The Commission is reluctant to require depositories at this time to adopt uniform eligibility critieria. The Commission recognizes that eligibility requirements are important decisions reached by the depositories after extensive consultation with their participants. These decisions reflect a balancing of available resources, participant demand, operational preferences and system safeguards. The Commission also recognizes that eligibility determinations reflect a dynamic process and that the universe of dually-eligible securities issues should grow dramatically by February 1985 as a result of depository and participant experience. The Commission and the MSRB, of course, will monitor developments and, if necessary, will consider appropriate action.

[37] As noted above, for customer-side processing of transactions in corporate securities issues alone, these savings aggregate annually to hundreds of millions of dollars. Moreover, with regard to municipal securities transactions, brokers and dealers face financing costs for fails on both the customer-side and the street-side.

[38] At the present time, depositories recover the costs of confirmation and affirmation processing from participating broker-dealers and custodian banks. The depositories do not charge institutional customers for ID processing. The Commission, therefore, recognizes that those processing costs may well be passed through to institutional customers. Such a pass-through would offset, in some measure, reduced commission fees.

[39] *See* note 31, *supra*. Exchange and NASD rules requiring depository participants to use depository facilities for customer-side settlement took effect in January 1983. Many municipal securities brokers, dealers, and investment managers that effect transactions in both corporate and municipal securities issues are fully automated on the corporate side. These industry members may be able to rely on that experience during the transition to automated processing for municipal securities transactions, since some overlap in systems and personnel must exist. Also, municipal securities dealer-bank departments may be able to rely on the trust department, or other internal or bank subsidiary clearing operation for either the expertise in developing automated clearing and communication systems to interface with clearing agencies or the actual performance of the clearance function.

[40] A non-participating dealer department in a bank that has a participating trust department, however, faces a special problem. In that instance, the trust department's participation is imputed to the dealer department under the Rules. If the trust department does not provide clearing services to the dealer department, the dealer department must use a participating clearing agent to be in compliance with the MSRB Rules.

Commenters suggested to the MSRB that, in this situation, the dealer department may be "forced" to use clearing agency services. The Commission understands, however, that the vast majority of dealer-bank departments already employ participating broker or bank clearing agents. Nevertheless, should a dealer-bank department find that it must change its clearing arrangements under the Rule, it will face additional start-up costs. Overtime, however, as with all participating parties, the benefits should greatly exceed the costs.

[41] (November 9, 1982) 47 FR 51662 (November 16, 1982). Those reasons included: The absence of a requirement that securities be maintained in a depository account after settement; the ability of custodians that wish to perform a full service role for their non-participating institutional customers to operate independent, automated communications systems adequate to assure timely confirmation, affirmation and settlement through the institutional delivery systems; and the flexibility afforded participating custodian banks in choosing direct or indirect participation in a securities depository.

impose any burdens on competition not necessary or appropriate in furtherance of the purposes of the Act.

Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act. The Commission also finds that the proposed rule change will not impose a burden on competition that is not necessary or appropriate under the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, pursuant to delegated authority, by the Division of Market Regulation.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31144 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

1st Source Capital Corp.; Application for a License To Operate as a Small Business Investment Company (SBIC)

[Application No. 05/05-0194]

Notice is hereby given of the filing of an application witeh the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the Rules and Regulations (48 FR 45014, Sept. 30, 1983), by 1st Source Capital Corporation, 100 North Michigan Street, South Bend, Indiana 46601 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.*).

The proposed officers, directors and shareholders are:

Name and Address	Title or Relationship	Percent of Ownership
Christopher J. Murphy, III, 100 North Michigan Street, South Bend, Indiana 46601.	President, Director.	
Anselm S. Burkart, 100 North Michigan Street, South Bend, Indiana 46601.	Vice President, Director.	
Eugene L. Cavanaugh, Jr., 100 North Michigan Street, South Bend, Indiana 46601.	Vice President, Director.	
David C. Bowers, 100 North Michigan Street, South Bend, Indiana 46601.	Treasurer, Secretary & Director.	
Ernestine M. Raclin, 100 North Michigan Street, South Bend, Indiana 46601.	Director	
1st Source Bank, 100 North Michigan Street, South Bend, Indiana 46601.	Shareholder	100 percent of common stock.
Corporation for Innovation Development, One North Capitol, Suite 520, Indianapolis, Indiana 46204.	Shareholder	100 percent of preferred stock.

1st Source Bank is a wholly owned subsidiary of 1st Source Corporation, a company engaged in the furnishing of financial services as a bank holding company under the provisions of the Federal Bank Holding Company Act of 1956, as amended. 1st Source Bank, ranked ninth in the State of Indiana in total resources, conducts a full-service commercial banking business.

The Corporation for Innovation Development was formed by the Indiana Legislature in 1981 as a private corporation with the stated purpose of encouraging investment in the State of Indiana, to encourage the expansion of business and industry to provide additional jobs within the State and to encourage research and development activities within the State.

The Applicant will begin operations with a capitalization of $1,835,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in South Bend, Indiana.

Dated: November 10, 1983.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-31126 Filed 11-17-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Ventura County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Ventura County, California.

FOR FURTHER INFORMATION CONTACT: Glen Clinton, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440-2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (CALTRANS), will prepare a Draft Environmental Impact Statement on a proposal to construct a connection from the temporary end of Route 23 Freeway at New Los Angeles Avenue to the temporary end of Route 118 Freeway 0.3 mile east of College View Avenue.

The Freeway and Expressway system shows Route 23 and Route 118 intersecting, but their present termini leaves a gap of approximately two miles. Presently, it is necessary to travel approximately 3.4 miles on routes with higher than average accident rates. The project would be 2.1 to 3.0 miles in length depending upon the alternative selected.

Alternatives under consideration include: (1) A four lane freeway with two full interchanges, (2) an expressway with signalized intersections, (3) extension of New Los Angeles Avenue to College View, (4) Extension of Route 23, (5) no project.

No scoping meetings have been scheduled at this time. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: November 8, 1983.

Glen Clinton,

District Engineer, Sacramento, California.

[FR Doc. 83-31116 Filed 11-17-83; 8:45 am]

BILLING CODE 4910-22-M

National Motor Carrier Advisory Committee; Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on December 14, 1983, beginning at 9:00 a.m., in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, D.C., Room 4234. The meeting is open to the public.

The agenda includes the following topics:

Study status report on longer combination commercial motor vehicles (Sections 138 and 415 of the Surface Transportation Assistance Act of 1982 (STAA) Pub. L. 97–424, 96 Stat. 2097);

Study status report on Alternatives to Heavy Truck Use Tax (Sec. 513(g) of STAA);

Status report on uniformity of State regulation of interstate commercial motor vehicles;

Report on National Association of Regulatory Utility Commissioners' State-Industry Task Force on Uniformity;

Status report on monitoring of Double Bottom Trucks (Sec. 144 of STAA);

Review of Bridge Formula for truck weight limitation;

Status report on Docket No. 83–14—Implementation of Truck Size and Weight Provisions of the STAA;

Progress in implementation of the Motor Carrier Assistance Program; and

Issues for future consideration.

For further information contact Mr. James J. Stapleton, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–0834. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on November 16, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-31223 Filed 11-17-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 14, 1983.

On November 14, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0110.

Form Number: 1099–DIV.

Type of Review: Revision.

Title: Statement for Recipients of Dividends and Distribution.

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Departmental Reports, Management Office.

[FR Doc. 83-31098 Filed 11-17-83; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Book and Library Advisory Committee; Meeting

The Book and Library Advisory Committee will meet on Thursday, December 1, 1983, in the new headquarters of the United States Information Agency, Room 800, 301 4th Street SW., Washington, D.C. 20547, from 10:30 a.m. to 2:00 p.m.

Agenda topics will include membership, book and library budgets, special funding for a Chinese book program and reports on Agency participation in International Book Fairs.

The public is welcome, but seating is limited. Please contact Louise Wheeler on (202) 485–7338 for further information.

Dated: November 15, 1983.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 83-31099 Filed 11-17-83; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Privacy Act of 1974; New System of Records

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published a notice of its inventory of personal records on September 27, 1977 (42 FR 49726).

Notice is hereby given that the Veterans Administration is adding a new system of records entitled "Inspector General Complaint Center Records—VA," (66VA53).

The purpose of this new system of records is to provide for the maintenance of information concerning the possible existence of a violation of law, rules or regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety. A Complaint Center has been established to receive complaints coming from hotline telephone calls and through the mail. It is important that an adequate records system be maintained to ensure that each complaint or allegation is examined and that the results of the examinations are provided to the Agency and the complainant.

The Administrator of Veterans Affairs has exempted this system of records under certain conditions permitted by 5 U.S.C. 552a(j)(2) and 552a(k)(2) in order to accomplish the law enforcement functions of the Office of Inspector General.

In accordance with 5 U.S.C. 552a(b)(3), the Veterans Administration has adopted and published routine uses for its systems of records. A routine use allows the agency to disclose Privacy Act records/information without the written consent of the individual to whom the record pertains. Within the VA, routine uses are principally used to permit disclosure of information from a Privacy Act system of records to a third party to enable the VA to carry out its programs in the most expeditious manner possible. Generally, a routine use identified in a VA system of records will either specifically identify information, or in the alternative, the general subject matter (i.e., a major group of information such as "identifying information" and "medical information") which is being disclosed. In those instances where a routine use identifies disclosure of a general subject matter, the general subject matter will be specifically described in the

"Categories of records in the system" section of the system of records. Routine uses may be used in conjunction with one another. Each VA system of records contains the routine uses which are applicable for that system.

For purposes of these VA systems of records, the subsequent definitional terms or concepts are used as follows:

1. *Veteran.* A person who served in the active military, naval or air service, and who was discharged or released therefrom under conditions other than dishonorable and whose name and address and other information is maintained by the VA by virtue of the administration of veterans benefits under Title 38, United States Code. For purposes of this system notice (unless specifically stated otherwise in the "categories of individuals covered by this system" section of a system of records) the term veteran will also include the dependents of a veteran and any other individual who has been granted veteran status by virtue of a specific statutory authority. The name, address and other information regarding a veteran is protected by 38 U.S.C. 3301 and 4132 in addition to the Privacy Act. Accordingly, any disclosures of information concerning a veteran made from a Privacy Act system of records under a routine use or other Privacy Act authority shall be consistent with the provisions of 38 U.S.C. 3301 and 4132.

2. *Claimant.* Any individual making a claim for a benefit under Title 38, United States Code, e.g., veteran, nonveteran life insurance beneficiaries.

3. *Record.* Any item, collection or grouping of information about an individual that includes an individual identifier and that is maintained by the agency. It is noted that the term "record" may be used with regard to as little as one descriptive item about an individual.

4. *Information v. Data.* "Information" is individually identifiable (e.g., record includes an individual's name or address or other identifying information) whereas "data" is not individually identifiable.

5. *Disclosures made "At the Request of the Veteran." In a few routine use notices, for purposes of Section 3301 of Title 38, United States Code, the VA has identified situations when the disclosure of a veteran's name and address by the VA to a third party is being made "at the request of the veteran." In these instances, an express or implied consent to disclose a veteran's name or address may be inferred by the VA when a veteran has submitted a claim for VA benefits, inquired into benefits provided by the VA, or has sought assistance from the VA in obtaining any other benefits (e.g., employment, State or local agency benefits programs) to which the veteran might be entitled and referral of the name and address of the veteran by the VA to a third party will reasonably be required for the VA to act on the request of the veteran for assistance.*

A "Report of Intention to Publish a **Federal Register** Notice of a New System of Records" and an advance copy of the new system notice were sent on May 11, 1982, to the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB), as required by the provisions of 5 U.S.C. 552a(o) and the Privacy Act Guidelines issued by OMB on October 3, 1975 (40 FR 45877). One comment was received. The comment concerned the wording of the title of the new system. It also questioned the justification and need for the (j)(2) and (k)(2) exemptions and expressed reservations about the scope of the exemptions that were to be claimed. The wording of the title was revised and the need for the exemptions explained. Other clarifying and editorial changes have been made.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before December 19, 1983 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 4, 1984.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the system of records is effective December 19, 1983.

Approved: November 14, 1983.

By direction of the Adminstrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Notice of System of Records

66-VA-53

SYSTEM NAME:

Inspector General Complaint Center Records—VA (66VA53).

SYSTEM LOCATION:

Veterans Administration, Office of Assistant Inspector General for Policy, Planning and Resources (53), Washington, D.C. 20420.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by the system: Subjects of complaints and complainants. Subjects and complainants may be employees or third parties (e.g., occasionally, a veteran, beneficiary or private citizen). Complainants are individuals who have reported the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include: (1) The name, home and work address and phone number of the complainant; (2) name of the subject of the complaint; and (3) the location and nature of the alleged wrongdoing. The records may also include (1) documentation and evidence from the complainant, and (2) correspondence between the Assistant Inspector General for Policy, Planning and Resources (53) and other components of the Office of the Inspector General, agency departments, and the complainant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Section 210(c)(1); and Title 5, United States Code, Apprendix 1, Section 7 (a) and (b) (The Inspector General Act of 1978, Pub. L. 95-452).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system, except the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program status or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility or investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

3. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto, in response to its official request.

4. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State of local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and/or address is provided for a purpose authorized by law.

5. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

6. Any information in this system may be disclosed to a State or municipal grand jury, a State or municipal court or a party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such an agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; *Provided*, That any disclosure of claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

7. Any information in this system may be disclosed to the Office of Special Counsel, upon its official request, when required for the Special Counsel's review of the complainant's allegations of prohibited personnel practices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in numbered individual file folders, on computer disks, tapes and printouts.

RETRIEVABILITY:

The file folders are numbered and are individually retrievable by means of the case numbers or indexed in the computer by the names of the complainants and subjects of the complaints.

SAFEGUARDS:

Access to the file folders and computerized information is restricted to authorized personnel on a need-to-know basis. The file room and cabinets are locked after duty hours and the building is protected by building guards and the Federal Protective Service. Computerized case tracking information will be maintained in a private library accessible only to authorized users. Access to the computerized information will be limited to VA employees on a "need-to-know" basis by means of passwords and authorized user identification codes. Computer system documentation will be maintained in a secure environment in the Office of Inspector General, VA Central Office. Physical access to printouts and data terminals will be limited to authorization personnel in Office of Inspector General.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with a records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Policy, Planning and Resources (53), Veterans Administration Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURES:

An individual who wishes to determine whether a record is being maintained by the Assistant Inspector General for Policy, Planning and Resources, under his or her name in this system or wishes to determine the contents of such records should submit a written request to the Assistant Inspector General for Policy, Planning and Resources (53). However, a majority of records in this system are exempt from the notification requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination as to whether an exemption applies shall be made at the time a request for notification is received.

RECORDS ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in this system may write or call the Assistant Inspector General for Policy, Planning and Resources (53). However, a majority of records in this system are exempt from the record access and contesting requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See records access procedures above.)

RECORD SOURCE CATEGORIES:

Information is obtained from employees, third parties (e.g., on occasion a veteran, beneficiary or third party), the General Accounting Office, Veterans Administration records, congressional and federal offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j) (2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Pub. L. 95–452, mandates the Inspector General to recommend policies for and to conduct, supervise and coordinate activities in the Veterans Administration and between the Veterans Administration and other Federal, State and local governmental agencies with respect to: (1) The prevention and detection of fraud in programs and operations administered or financed by the Veterans Administration and (2) the identification and prosecution of participants in such fraud. Under the Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law, the Inspector General must report the matter expeditiously to the Attorney General.

This system of records has been created in major part to support the criminal law-related activities assigned by the Inspector General to the Assistant Inspector General for investigations. These activities constitute a principal function of the Inspector General's Complaint Center staff.

In addition to principal functions pertaining to the enforcement of criminal laws, the Inspector General

may receive and investigate complaints and allegations from various sources concerning the possible existence of activities constituting noncriminal violations of law, rules or regulations; mismanagement; gross waste of funds; abuses of authority or substantial and specific danger to the public health and safety. This system of records also exists to support inquiries by the Assistant Inspectors General for Auditing and for Policy, Planning and Resources into these noncriminal violations.

Based upon the foregoing, the Administration of Veterans Affairs has exempted this system of records, to the extent that it encompasses information pertaining to criminal law-related activities, from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(j)(2):

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1), (2) and (3)
5 U.S.C. 552a(e)(4)(G), and (H) and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C., 552a(g)

The Administrator of Veterans Affairs has also exempted this system of records to the extent that it does not encompass information pertaining to criminal law-related activities under 5 U.S.C. 552a(j)(2) from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H) and (I)
5 U.S.C. 552a(f)

Reasons for exemptions: The exemption of information and material in this system of records is necessary in order to accomplish the law enforcement functions of the Office of Inspector General; e.g., to prevent subjects of investigations from frustrating the investigatory process by discovering the scope and progress of an investigation, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of source, to maintain access to sources of information and to avoid endangering these sources and law enforcement personnel.

[FR Doc. 83-31118 Filed 11-17-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 224
Friday, November 18, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 51198, November 7, 1983.

PREVISOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 9, 1983.

STATUS: Closed.

MATTER TO BE CONSIDERED: Amusement Rides: Dissemination of information on certain amusement rides for public health and safety. (Items previously announced were rescheduled for November 14, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207.

Dated: November 16, 1983.

Sheldon D. Butts,

Deputy Secretary.

[S-1601-83 Filed 11-16-83; 2:29 pm]

BILLING CODE 6355-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, November 23, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a meeting on November 17, 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.

James McAfee,

Associate Secretary of the Board.

November 15, 1983.

[S-1607-83 Filed 11-15-83; 4:38 pm]

BILLING CODE 6210-01-M

3

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION

Note.—The following document was published in the issue of Monday, November 14, 1983 on page 51887; however, the date of the meeting was inadvertently printed as "November 16, 1983". The date should have been given as "November 28, 1983".

Blue Ribbon Panel on the Information Policy Implications of Archiving Satellite Data

DATE AND TIME: November 28, 1983, 9 a.m.–4 p.m.

PLACE: The Capitol Holiday Inn, 550 C Street SW., Washington, D.C. 20024.

STATUS: Open.

MATTERS TO BE DISCUSSED: To review comments on draft RFP that are pertinent to the data archiving issue and to discuss possible recommendations to the Source Evaluation Board on Civil Space Remote Sensing Satellite Systems.

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

November 7, 1983.

Sarah G. Bishop,

Deputy Director, NCLIS.

[S-1586-83 Filed 11-9-83; 2:20 pm]

BILLING CODE 1505-01-M

4

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Thursday, December 8, 1983.

PLACE: Board Hearing Room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of November, 1983.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone: (202) 523-5920.

Dated: November 14, 1983.

[S-1608-83 Filed 11-16-83; 2:10 pm]

BILLING CODE 7550-01-M

federal register

Friday
November 18, 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 dates of publication in the **Federal Register** are listed with each State.

Kansas:		
	KS83-4063	Sept. 2, 1983.
	KS83-4064	Do.
	KS83-4065	Do.
	KS83-4066	Sept. 9, 1983.
New York:		
	NY83-3018	May 20, 1983.
	NY83-3050	Nov. 4, 1983.
Texas:	TX83-4042	June 3, 1983.
Indiana:	IN83-2073	Sept. 9, 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. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts: MA81-3050 (MA83-3049)	Aug. 28, 1981.
West Virginia: WV82-3002 (WV83-3022)	Oct. 29, 1982.

Signed at Washington, D.C. this 10th day of November 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION #KS83-4063-MOD#1 (48 FR 40085-September 2, 1983) Shawnee County, Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers;Stonemasons	$14.14	$1.25
Lathers	12.45	1.80
Roofers:		
Roofers	14.66	b+2.29
Pitch	15.76	b+2.29
Sprinkler Fitters	16.47	3.23
Footnote:		
b. After 6 months of employment $.26; after 5 years $.52.		

DECISION #KS83-4064-MOD#1 (48 FR 40087-September 2, 1983) Sedgewick County, Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sprinkler Fitters	16.47	3.23
Tile, Marble and Terrazzo Workers	13.05	

DECISION #KS83-4065-MOD#1 (48 FR 40089-September 2, 1983) Leavenworth County, Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers;Stonemasons	15.94	2.60
Cement Masons	15.275	1.95

DECISION #KS83-4066-MOD#2 (48 FR 40838-September 9, 1983) Douglas, Jefferson, Miami, Leavenworth and Shawnee Counties, Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement Masons: Zone 1	$15.17	$1.95
POWER EQUIPMENT OPERATOR		
OPERATORS:		
Zone 1: Leavenworth County		
GROUP 1	14.10	3.92
GROUP 2	13.85	3.92
GROUP 3	13.15	3.92
GROUP 4		
a	9.13	3.92
b	12.15	3.92
Truck Drivers:		
Zone 1: Leavenworth and Miami Counties		
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

DECISION No. NY83-3050 MOD. #1 (48 FR 50990-November 4, 1983) CHEMUNG COUNTY, N.Y.	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers: Building	$10.87	1.15

DECISION NO. TX83-4042 - MOD. #6 (48 FR 25106 - 6/3/83) Collin,Dallas,Denton, Ellis,Grayson,Hood,Hunt, Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant & Wise Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Zone 1 - Group 1	$16.04	1.80
Group 2	16.29	1.80
Group 3	16.13	1.80
Group 4	16.79	1.80

DECISION NO. NY83-3018 - MOD. #3 (48 FR 22870 - May 20, 1983) DUTCHESS, ORANGE, SULLIVAN & ULSTER COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS:		
DUTCHESS; ORANGE	21.0687	3.6971
BOILERMAKERS	21.06	1.04+3%
BRICKLAYERS; STONE MASONS; CEMENT MASONS; PLASTERERS:		
Area 1:		
Building	13.85	4.77
Heavy & Highway	14.10	4.77+b
Area 2:		
Building	14.50	4.16
Heavy & Highway	14.75	4.16+c
CARPENTERS; SOFT FLOOR LAYERS; BRIDGE, DOCK & WHARF:		
ORANGE (Tuxedo, Woodbury, Monroe, part of Cornwall, Chester Blooming Grove, Highlands)		
Building	13.90	5.10
Heavy & Highway	13.90	5.10+d
CARPENTERS:		
ORANGE (Remainder of County):		
Building	14.20	4.40
Heavy & Highway	13.20	4.05
DOCKBUILDERS		
DUTCHESS; ORANGE (Remainder of County)	17.36	6.537
ELECTRICIANS		
Area 3	15.00	38%
ELEVATOR CONSTRUCTORS:		
DUTCHESS; ORANGE	17.40	3.00+ f+g
ELEVATOR CONSTRUCTORS' HELPERS:		
DUTCHESS; ORANGE	12.18	3.00+ f+g
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)		
DUTCHESS; ORANGE	8.78	
GLAZIERS	17.65	5.70
IRONWORKERS	13.95	9.72

	Basic Hourly Rates	Fringe Benefits
LABORERS (BUILDING)		
ULSTER; ORANGE; SULLIVAN:		
Where total contract price exceeds $200,000:		
Class 1	12.90	3.40
Class 2	13.15	3.40
Class 3	13.55	3.40
Where total contract price does not exceed $200,000:		
Class 1	11.61	3.40
Class 2	11.84	3.40
Class 3	12.20	3.40
LABORERS (HEAVY & HIGHWAY)		
ULSTER; ORANGE; SULLIVAN:		
Group 1	13.45	3.20+i
Group 2	13.70	3.20+i
Group 3	14.10	3.20+i
LINE CONSTRUCTION		
SEE END OF MODIFICATION		
PLUMBERS & STEAMFITTERS:		
ORANGE (except Tuxedo and Monroe	17.40	4.40
ROOFERS	13.84	6.70+m
SOFT FLOOR LAYERS:		
DUTCHESS; ORANGE		
Soft floor layers	17.37	6.63
Hand sewers	11.52	6.63
SPRINKLER FITTERS	16.92	3.13
TRUCK DRIVERS (Building):		
Group 1	14.20	2.80+o
Group 2	14.10	2.80+o
Group 3	13.90	2.80+o
Group 4	13.80	2.80+o
Group 5	13.70	2.80+o
TRUCK DRIVERS		
(Heavy & Highway):		
Group 1	15.20	2.80+o
Group 2	15.10	2.80+o
Group 3	14.90	2.80+o
Group 4	14.80	2.80+o
Group 5	14.70	2.80+o

DECISION NO. NY83-3018 - (Cont'd)

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved:		
Journeyman Lineman & Technician	14.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer)	12.07	3.95+ 5%+a
Driver Mechanic, Groundman - Experienced	10.65	3.95+ 5%+a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	3.95+ 5%+a
Driver Mechanic Groundman	12.24	3.95+ 5%+a
Sub-Station Switching Substructures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved		
Journeyman Lineman & Technician	17.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Driver Mechanic, Groundman	12.90	3.95+ 5%+a
All Pipe-type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	3.95+ 5%+a
Certified Lineman Welder	18.06	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Equipment Operator	17.20	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Groundman Truck Drivers	13.76	3.95+ 5%+a
Groundman	12.90	3.95+ 5%+a

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

DECISION NO. IN83-2073 -	Basic Hourly Rates	Fringe Benefits
Mod. #3 (48 FR 40832 - September 9, 1983) Statewide, except Lake, LaPorte, Porter and St. Joseph Counties, Indiana		
Change: Decision No. IN83-2031 - Mod. #3 issued November 4, 1983 in Volume 48, Page 50990 To Read: DECISION NO. IN83-2073- Mod. #2 - September 9, 1983 - Volume 48, Page 40831		

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley, Jefferson, and Morgan
DECISION NO.: WV83-3022 DATE: Date of Publication
Supersedes Decision No. WV82-3002 dated October 29, 1982 in 47 FR 49220
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
AREA 1	15.75	2.79
AREA 2	15.78	3.99
AREA 3	18.50	2.68
BOILERMAKERS:		
AREA 1	18.35	2.815
AREA 2	16.67	1.18+ 12%
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS, & TILE LAYERS:		
AREA 1	13.54	1.80
AREA 2	16.20	1.75
AREA 3	13.70	.50
AREA 4		
Bricklayers & Stone Masons	16.29	2.17
Marble Masons, Terrazzo Workers, & Tile Layers	15.12	1.65
AREA 5		
Bricklayers & Stone Masons	17.21	1.66
Marble Masons, Terrazzo Workers & Tile Layers	15.71	1.66
AREA 6		
Bricklayers & Stone Masons	17.06	1.04
Masons Masons, Terrazzo Workers & Tile Layers	16.56	1.04
AREA 7		
Bricklayers & Stone Masons	15.19	2.32
Tile Layers	14.04	2.32
AREA 8		
Bricklayers, Stone Masons & Marble Masons	17.23	1.37
Tile Setters & Terrazzo Workers	15.18	1.37
CARPENTERS & PILEDRIVERMEN:		
AREA 1		
Carpenters Contracts under $100,000	14.68	3.12
Contracts $100,000 or more	14.93	3.12
Piledrivermen Contracts under $100,000	15.18	3.12
Contracts $100,000 or more	15.83	3.12
AREA 2		
Carpenters	14.30	2.89
Piledrivermen	14.72	2.89
AREA 3		
Carpenters	14.71	3.15
Piledrivermen	15.47	3.15
AREA 4		
Carpenters	15.75	2.43
Piledrivermen	16.00	2.43
AREA 5		
Carpenters	14.91	2.95
Piledrivermen	15.91	2.95
AREA 6		
Carpenters	13.42	2.05
Piledrivermen	13.74	2.05
CEMENT MASONS & PLASTERERS:		
AREA 1	16.32	.85
AREA 2		
Cement Masons	15.79	.03
Plasterers	15.79	
AREA 3	8.70	
AREA 4		
Cement Masons	13.85	1.33
Plasterers	9.10	.01
AREA 5		
Plasterers	15.68	1.15
AREA 6		
Cement Masons	16.43	1.18

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS & PLASTERERS (CONT'D):		
AREA 7		
Cement Masons	14.79	.05
Plasterers	11.75	.01
AREA 8		
Cement Masons	7.36	.76
AREA 9	15.12	.80
AREA 10		
Cement Masons	6.90	.35
AREA 11	11.53	1.08+a
ELECTRICIANS:		
Barbour, Doddridge, Harrison, Lewis, Randolph & Upshure Cos.:		
Wiremen	14.88	3%+ 4.07
Cable Splicers	16.37	3%+ 4.07
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:		
Wiremen	15.55	3%+ 5.06
Cable Splicers	15.80	3%+ 5.06
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:		
Wiremen	15.43	3%+ 4.08
Cable Splicers	15.68	3%+ 4.08
Brooke (Remainder of Co.) and Hancock (except Grant Twp.) Counties		
Wiremen	18.00	43%
Cabell & Wayne Counties:		
Wiremen	17.32	3.06+ 3%
Cable Splicers	18.19	3.06+ 3%
Lincoln County:		
Wiremen	17.32	3.06+ 3%
Cable Splicers	18.19	3.06+ 3%
Logan, Mason & Mingo Counties:		
Wiremen	17.32	3.06+ 3%
Cable Splicers	18.19	3.06+ 3%
Hampshire and Mineral County:		
Wiremen	15.00	3 3/4%+ 2.40
Grant County:		
Wiremen	16.00	3 3/4%+ 2.40
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:		
Wiremen	13.60	3%%+ .75
Cable Splicers	14.00	3%%+ .75
Hardy & Pendleton Cos.:		
Contracts under $30,000 (excluding industrial plants):		
Wiremen	6.95	3 3/4% +.50
Contracts $30,000 or more (plus all contracts for industrial plants):		
Wiremen	10.95	3 3/4% +.50
Marion, Monongalia, Taylor, Preston & Tucker Counties:		
Contracts under $50,000		
Wiremen	10.50	3%+ 3.81
Contracts over $50,000		
Wiremen	14.95	3%+ 4.05
Cable Splicers	15.10	3%+ 4.05
Hancock County (Grant Twp. only):		
Wiremen	13.30	21%%
Cable Splicers	13.70	21%%

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D):		
Summers & Wyoming Cos.:		
Contracts $15,00 or less:		
Wiremen	13.62	3%+ 2.27
Cable Splicers	13.92	3%+ 2.27
Contractors over $15,000:		
Wiremen	16.52	3%+ 2.27
Cable Splicers	16.82	3%+ 2.27
Fayette (except Falls & Kanawha Twps.) County:		
Contractors $15,000 or less:		
Wiremen	13.42	3%+ 2.27
Cable Splicers	13.72	3%+ 2.27
Contractors over $15,000:		
Wiremen	16.32	3%+ 2.27
Cable Splicers	16.62	3%+ 2.27
Raleigh (except Clear Fork & Marsha Fork Twps.) County:		
Contracts $15,000 or less:		
Wiremen	13.12	3%+ 2.27
Cable Splicers	13.42	3%+ 2.27
Contracts over $15,000:		
Wiremen	16.02	3%+ 2.27
Cable Splicers	16.32	3%+ 2.27
Kanawha County (Not including Montgomery Township)		
Wiremen	18.62	8%+.79
Cable Splicer	20.84	8%+.79
Putnam County		
Wiremen	19.37	8%+.79
Cable Splicer	21.31	8%+.79
Roane, Clay, Fayette, Raleigh & Boon County (Including Montgomery Township)		
Wiremen	19.62	8%+.79
Cable Splicers	21.58	8%+.79
Calhoun, Gilmer, Braxton, Webster & Nicholas Counties		
Wiremen	20.62	8%+.79
Cable Splicers	22.68	8%+.79
ELEVATOR CONSTRUCTORS:		
Brooke, Hancock, Marshall Ohio Counties:		
Mechanics	15.07	2.69+ b+c
Helpers	10.55	2.69+ b+c
Probationary Helpers	7.535	
Boone, Clay, Fayette, Kanawha, Jackson, Lincoln, Putnam & Roane Counties:		
Mechanics	16.29	2.69+ b+c
Helpers	11.40	2.69+ b+c
Probationary Helpers	8.145	
Cabell, Mason & Wayne Counties:		
Mechanics	17.095	2.465+ b+c
Helpers	11.97	2.465+ b+c
Probationary Helpers	8.55	
GLAZIERS:		
AREA 1	13.28	.70
AREA 2	15.84	1.11
AREA 3	11.52	1.57

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS - STRUCTURAL, ORNAMENTAL & REINFORCING:		
AREA 1	16.88	3.17
AREA 2	14.79	8%+ 5.14
AREA 3	15.97	3.69
AREA 4	15.11	3.15
AREA 5	12.05	1.68
AREA 6		
Zone 1 - 10 miles from Union Hall	12.07	1.96
Zone 2 - 10-15 miles from Union Hall	12.22	1.96
Zone 3 - 15-20 miles from Union Hall	12.32	1.96
Zone 4 - over 20 miles from Union Hall	12.42	1.96
LABORERS:		
AREA 1		
Group 1	11.25	2.15
Group 2	11.75	2.15
Group 3	12.15	2.15
AREA 2		
Group 1	10.70	2.45
Group 2	11.06	2.45
Group 3	11.49	2.45
AREA 3		
Group 1	10.24	2.15
Group 2	10.75	2.15
Group 3	11.16	2.15
AREA 4		
Group 1	12.06	2.15
Group 2	12.46	2.15
Group 3	12.71	2.15
AREA 5		
Group 1	12.06	2.15
Group 2	12.46	2.15
Group 3	12.71	2.15
AREA 6		
Group 1	13.15	2.45
Group 2	13.45	2.45
Group 3	13.80	2.45
AREA 7		
Group 1	13.42	2.45
Group 2	13.72	2.45
Group 3	14.07	2.45
AREA 8		
Group 1	13.50	2.70
Group 2	13.67	2.70
Group 3	13.70	2.70
Group 4	13.83	2.70
Group 5		
50' to 100'	13.83	2.70
100' to 150'	14.00	2.70
over 150'	13.20	2.70
Group 6	14.18	2.70
Group 7	13.74	2.70
Group 8	14.03	2.70
Group 9	13.83	2.70
Group 10	14.33	2.70
LATHERS:		
AREA 1	11.725	.10
AREA 2	12.25	.21
AREA 3	10.56	.61
AREA 4	8.98	1.56
AREA 5	9.315	.10
AREA 6	10.78	.16
LINE CONSTRUCTION:		
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:		
Linemen	13.85	3½%+ .70
Cable Splicers	13.85	3½%+ .70
Equipment Operators	11.94	3½%+ .70
Truck with earth boring auger	9.61	3½%+ .70
Truck with winch & groundmen	7.76	3½%+ .70
Hampshire and Mineral Counties:		
Linemen	15.00	3%+ 2.40
Equipment Operators	14.25	3%+ 2.40
Truck Drivers & groundmen	9.75	3%+ 2.40

DECISION NO. WV83-3022	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION CONT'D:		
Grant County:		
Linemen	16.00	3%+ 2.40
Equipment Operators	15.25	3%+ 2.40
Truck Drivers & groundman	10.75	3%+ 2.40
Hardy & Pendleton Cos.:		
Linemen, Cable Splicers & Equipment Operators	17.66	.70+8%
Truck with winch, pole or steel handling	9.34	.70+8%
Groundmen	9.06	.70+8%
Hancock County - Grant Twp. only:		
Linemen & Equipment Operators	13.30	22½%
Cable Splicers	13.70	22½%
Truck Drivers & Groundmen	11.90	22½%
Raleigh (except Clear Fork and Marsh Fork Twps.):		
Linemen & Equipment Operators	16.02	3½% 2.29
Cable Splicer	16.32	3½% 2.29
Groundmen and Truck Drivers	12.82	3½% 2.29
Summers & Wyoming Cos.:		
Linemen & Equipment Operators	16.52	3½%+ 2.29
Cable Splicers	16.82	3½%+ 2.29
Groundmen and Truck Drivers	13.21	3½%+ 2.29
Fayette County (except Falls and Kanawha Townships):		
Linemen & Equipment Operators	16.32	3½%+ 2.29
Cable Splicers	16.62	3½%+ 2.29
Groundmen and Truck Drivers	13.05	3½%+ 2.29
Marion, Monongalia, Preston, Taylor & Tucker Counties:		
Linemen & Equipment Operators	14.65	3%+ 4.25
Cable Splicers	16.12	3%+ 4.25
Groundmen & Truck Drivers	11.72	3%+ 4.25
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:		
Linemen & Equipment Operators	15.45	3½%+ 5.10
Cable Splicers	17.00	3½%+ 5.10
Groundmen	12.36	3½%+ 5.10
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:		
Linemen & Equipment Operators	15.03	3%+ 4.00
Cable Splicers	15.28	3%+ 4.00
Groundmen	12.02	3%+ 4.00

DECISION NO. WV83-3022	Basic Hourly Rates	Fringe Benefits
Brooke (except Buffalo Twp.) & Hancock (except Grant Twp.) Counties:		
Linemen & Equipment Operator	18.00	42½%
Cable Splicers	18.50	42½%
Groundmen	11.70	42½%
Barbour, Doddridge, Harrison, Lewis, Randolph, and Upshur Counties:		
Linemen & Equipment Operators	14.88	3½%+ 4.00
Cable Splicers	16.53	3½%+ 4.00
Groundmen & Truck Drivers	11.90	3½%+ 4.00
Boone, Braxton, Cabell, Calhoun, CLay, Fayette (Falls and Kanawha Twps. only), Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Nicholas, Putnam, Raleigh (Clear Fork and Marsh Fork Twps. only) Roane, Wayne & Webster Counties:		
Linemen	18.31	3½%+ 2.20
Cable Splicers	20.14	3½%+ 2.20
Groundmen	11.90	3½%+ 2.20
Mechanized Equipment Operators	14.65	3½%+ 2.20
MARBLE, TERRAZZO & TILE FINISHERS:		
Statewide except for the Counties of Berkeley, Brooke, Cabell, Hancock, Jefferson, Lincoln, Mason (that portion south of the Kanawha River), Morgan, and Wayne		
Finishers	9.55	.65
Terrazzo floor grinders	9.70	.65
Terrazzo base grinding machine	9.80	.65
Cable, Lincoln, Mason (that portion south of the Kanawha River), & Wayne Counties	9.87	1.15
MILLWRIGHTS:		
AREA 1	14.80	2.89+ .80
AREA 2	17.36	.80
AREA 3	14.78	2.27
AREA 4	15.90	1.58+ 22%
AREA 5	14.45	2.43
AREA 6	15.80	2.06
PAINTERS:		
AREA 1		
Brush, rollers, hanging wallcovering & installing seemless type floors	11.20	.50
Spray, sandblasting & use of toxic materials	12.20	.50
AREA 2		
Painters -		
An area within 50 miles of Huntington, W.V.	11.40	.82
An area 50 miles and beyond of Huntington, W.V.	12.95	.82
Vinyl and all other wall covering and dry-wall taping		
An area within 50 miles of Huntington, W.V.	12.15	.82
An area 50 miles and beyond of Huntington, W.V.	13.70	.82

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
PAINTERS CONT'D:		
Repaint work (limited to Public Schools) -		
An area within 50 miles of Huntington, W.V.	9.12	.82
An area 50 miles and beyond of Huntington, W.V.	10.68	.82
AREA 3		
Brush , roller, paper, vinyl hangers & seamless floors.	14.10	1.87
Glove	14.38	1.87
Perfa-taping (Hand Tools Only)	14.47	1.87
Brush height over 40'	14.85	1.87
Spray, sandblast, seamless floor epoxy & steam clearing	15.10	1.87
AREA 4		
Brush & roller	14.10	1.87
Spray	15.10	1.87
Vinyl hanging & taping	15.18	1.87
AREA 5		
Commercial	14.78	.52
Drywall finishers	15.22	.52
Sandblasting	16.28	.52
Extra pay of heights 50' to 100' (+.50 per hour); over 100' (+$1.00 per hour)		
AREA 6		
New Construction:		
Brush	14.89	1.83
Roller	14.89	1.83
Spray & Blast	15.78	1.83
Pot-men	16.71	1.83
Commercial Repaint:		
Brush	13.47	1.83
Roller	13.47	1.83
Paperhanger	14.89	1.83
Drywall	15.21	1.83
Spray, pot-men	16.17	1.83
Paper & vinyl hangers	14.89	1.83
Open structural steel	15.78	1.83
Drywall pointers & tapers	15.21	1.83
Liquid tile brush	10.13	1.83
Stacks, vent pipes, flag poles, electrical, radio & T.V. Towers & tanks over 30' high	17.36	1.83
Hydroject, steam cleaning & glove work	15.78	1.83
Operating mechanical taping machines	16.21	1.83
AREA 7 (REPAINT)		
Air compressor operator	11.85	.65
Brush Painting	11.85	.65
Roller, Dry-wall Pointers & Tapers Dipping & Mitten Work & Spray	12.36	.65
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & boatswain Chair, Window Belt & Window Jack Work	13.41	.65
Brush Painters on Bridges, Neddle Beam, Cable Work, Power Tool Work, Brush & Flame Cleaning	14.01	.65
Operating Mechanical Taping Machines	14.33	.65
Sand Blasters	14.48	.65
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers, Water Towers, Elevated Tanks, electrical Switch Yards, Transformer Banks & Television Towers	15.92	.65

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
PAINTERS CONT'D:		
Vinyl hangers & paper hangers (with tools)	12.34	.68
AREA 7 (NEW)		
Air compressor operator	13.03	.68
Brush Painting	13.03	.68
Roller, Dry-wall Pointers & Tapers Dipping & Mitten Work & Spray	13.55	.68
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & boatswain Chair, Window Belt & Window Jack Work	14.22	.68
Brush Painters on Bridges, Neddle Beam, Cable Work, Power Tool Work, Brush & Flaming Cleaning	14.75	.68
Operating Mechanical Taping Machines	15.26	.68
Sand Blasters	15.20	.68
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers, Water Towers, Elevated Tanks, Electrical Switch Yards, Transformer Banks & Television Towers	16.54	.68
Vinyl hangers & Paper hangers (with tools)	13.49	.68
AREA 8		
Brush & Roller:		
Commercial	9.68	
Industrial	11.193	
Commercial Spray	10.89	
Structural Steel:		
Industrial	13.30	
Paperhanging & Wall-covering under 48"	8.50	
Paperhanging & Wall-covering over 48"	9.00	
Drywall Finishing	9.50	
Drywall Machine tools	10.10	
Power Cleaning Tools - 50¢ over appropriate scale		
Material emitting toxic vapor - $1.00 over appropriate scale		
Height clause - Additional $1.00 per hour per 100'		
PLUMBERS & PIPEFITTERS		
AREA 1	14.84	10%+3.39
AREA 2	15.09	"
AREA 3	15.34	"
AREA 4	15.39	"
AREA 5	15.63	1.00+ 19%
AREA 6	15.07	4.92
AREA 7	16.94	2.55
AREA 8		
Zone 1 - within an 8 mile radius of Cabell County Courthouse, Huntington, W.V.	16.01	3.92
Zone 2 - 8 to 15 miles from the courthouse	16.21	3.92
Zone 3 - 15 to 25 miles from the Courthouse	16.41	3.92
Zone 4 - Over 25 miles from the courthouse	16.66	3.92
AREA 9		
Contracts to $75,000	[4.005	2.795
Contracts above $75,000	14.005	2.445
PLUMBERS & STEAMFITTERS	16.85	2.45
POWER EQUIPMENT OPERATORS:		
Group 1	17.36	2.45
Group 2	16.86	2.45
Group 3	16.36	2.45
Group 4	15.96	2.45
Group 5	15.56	2.45
Group 6	14.86	2.45

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
ROOFERS:		
AREA 1	14.02	2.15
AREA 2	15.93	1.87
AREA 3	14.69	.31
(Roofers engaged in hot waterproofing which is applied vertically or in an enclosed area shall receive an additional $.50 per hour)		
AREA 4		
Composition Roofers	12.35	1.15
Composition Mopmen	12.50	1.15
Slaters	12.60	1.15
SHEETMETAL WORKERS:		
AREA 1	17.24	2.48
AREA 2	12.56	2.12
AREA 3	16.22	2.68
AREA 4	16.57	1.92
AREA 5	12.48	1.33
SOFT FLOOR LAYERS:		
AREA 1	14.71	3.15
AREA 2	13.42	2.05
AREA 3	15.75	2.43
AREA 4	14.91	2.95
SPRINKLER FITTERS	16.67	2.83
TRUCK DRIVERS:		
AREA 1		
Group 1	14.49	f+g
Group 2	14.59	f+g
Group 3	14.74	f+g
Group 4	14.89	f+g
Group 5	14.59	f+g
Group 6	14.89	f+g
Group 7	15.14	f+g
AREA 2		
Group 1	14.49	d+n
Group 2	14.59	d+n
Group 3	14.74	d+n
Group 4	14.89	d+n
Group 5	15.14	d+n
Group 6	15.24	d+n

	Basic Hourly Rates	Fringe Benefits
AREA 3		
Group 1	14.90	1.00+ h+j
Group 2	15.20	1.00+ h+j
Group 3	15.27	1.00+ h+j
Group 4	15.32	1.00+ h+j
Group 5	15.39	1.00+ h+j
Group 6	15.32	1.00+ h+j
Group 7	15.69	1.00+ h+j
AREA 4		
Group 1	6.10	k+i
Group 2	6.20	k+i
Group 3	6.40	k+i
Group 4	6.45	k+i
Group 5	6.50	k+i
Group 6	6.88	k+i
AREA 5		
Group 1	11.35	l+m
Group 2	11.38	l+m
Group 3	11.40	l+m
Group 4	11.50	l+m
Group 5	11.58	l+m
Group 6	11.63	l+m
Group 7	11.66	l+m
Group 8	11.93	l+m
Group 9	12.00	l+m
Group 10	12.03	l+m
AREA 6		
Group 1	10.76	e
Group 2	10.77	e
Group 3	10.81	e
Group 4	10.84	e
Group 5	10.86	e
Group 6	11.09	e
Group 7	11.39	e
Group 8	11.49	e

DECISION NO. WV83-3022

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS CONT'D:		
AREA 7		
Group 1	10.96	2.45
Group 2	11.14	2.45
Group 3	11.59	2.45
Group 4	11.63	2.45
Group 5	11.91	2.45

Basic Hourly Rates	Fringe Benefits

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshure, Wayne, Webster, Wirt, Wood and Wyoming Counties.

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshure, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Cos.

AREA 2 - Hancock County.

AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire, Mineral, Morgan, Berkeley & Jefferson Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Preston, Randolph, Taylor, Tucker, Upshure and Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Putnam, Putnam, Raleigh, Summers and Logan Counties.

AREA 5 - Cabell, Lincoln, Mason, Mingo and Wayne Counties.

DECISION NO. WV83-1022

AREA COVER BY BRICKLAYERS, STONEMASONS ETC CONT'D

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt and Wood Counties.

AREA 7 - Marshall, Ohio, Tyler and Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Preston, Randloph, Taylor, Tucker, Tyler, Upshur, Webster Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley, Hereford), Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, and Wyoming Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 5 - Brooke, Marshall, Ohio, and Wetzel.

AREA 6 - Brooke, Hancock, Marshall, Ohio & Wetzel Counties.

AREA 7 - Barbour, DoDdridge, Harrison, Lewis, Taylor, Tucker, Upshure and Webster Counties.

DECISION NO. WV83-1022

AREAS COVERED BY CEMENT MASONS & PLASTERERS CONT'D

AREA 8 - Marion, Monongalia Counties.

AREA 9 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 10 - Greenbrier County.

AREA 11 - Grant, Hardy, Pendleton, Pocohontas & Randolph Counties.

AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayett, Greenbrier, Kanawha, Lincoln, Logan, MAson, McDowell, Mercer, Mingo, Monroe, Nicholas, Pendleton, Pocahontas, Putnam, Raleigh, Summets, Wayne & Wyoming Counties.

AREA 3 - Marshall, Ohio & Wetzel Counties.

AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshure, Wirt & Wood Counties.

AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler, Wetzel, Preston & Randolph Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Nicholas, Putnam, Raleigh, Webster & Wyoming Counties

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

DECISION NO. WV83-3022

CLASSIFICATION DEFINITIONS
LABORERS - AREAS 1,2,3,4,5

GROUP 1 - Laborers; carpenter tender; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders tile setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & peening hammer operators; air sysphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; power saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote, nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

LABORERS - AREAS 6

GROUP 1 - Laborers; carpenter tender; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; shipping & peening hammer operators; air sysphon & air pump operators; riprap finishers; concrete saw operators concrete technician; power saw operators; shain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; air track operator; pipe layer (including laser beam set-up); burner.

DECISION NO. WV83-3022

LABORERS - AREAS 7

GROUP 1 - Laborers; carpenter tender; water boy; fire watch; landscape laborer; tool room attendants

GROUP 2 - Powdermen helper; semi-skilled laborer; scaffold builders; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tender jackhammer operators; vibrator operators; tamper operators; pavement buster operators; shipping & peening hammer operators; air sysphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; power saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workemen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; ride or walk roller tampers; demolition work; leadman on concrete hose; scaffolding work over 50 ft. (inside and outside)

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

GROUP 4 - Deep ditch vertical 6 ft. or more

LABORERS - AREA 8

GROUP 1 - General laborers, carpenter tenders, toolroom men, and drinking water supplier.

GROUP 2 - All Brick Handlers, Tenders for Brick Masons, Plasterers, Stone Masons Tile Setters, Mortarmen for Masons and Plasterers and Men Mixing Cement for Cement Finishers, Scaffold Builders, Mortar Mixer Machine Operator.

GROUP 3 - Laborers Operating Concrete Busters, Jack Hammers, Air Spades, Chipping Hammers, Air Tampers, Vibrators, Power Buggy, Concrete Saw, Power Buggy, Concrete Saw, Sandblaster, Acetylene Burners, Scuba Diver, Panel Cleaning Machine Operators, Signalmen, All Power Driven Tools, Air Pump, Air Blow Pipe, Pipelayer and Helper Working in Ditches or Tunnels, Hand Spikers on Railroads, and Laborer Handling Concrete for Test or working with Tar Acid, and Creosote

GROUP 4 - Laborers performing work pertaining to or in connection with and repair of Stoves, Blast Furnaces, Basic Oxygen Process Furnaces, Kilns, Soaking Pits, Coke Batteries on Industrial Work.

DECISION NO. WV83-3022

LABORERS - AREA 8 CONT'D

GROUP 5 - Demolition of Stacks

GROUP 6 - Blastermen and Helper, Bellman and Lancer, All Bottom men in Blast Furnaces, Stacks, Stoves and Dust Catchers, Mud Men and Laborers working with Carbon Brick and Handling Bottom Block on Blast Furnaces, Stacks, Stoves, and Dust Catchers.

GROUP 7 - Ditches, Trenches, Caissons and Coffers over 6' deep, open top.

GROUP 8 - Miners including Caissons and Coffers, Horizontal or Underground, Mucking Machine Operators.

GROUP 9 - Tunnel Laborers, Muckers including Caissons and Coffers, Horizontal and Underground.

GROUP 10 - Gunite Nozzleman and Gunite Machine Operator--Grout Nozzleman and Grout Machine Operator.

AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Nicholas, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Preston, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - Cabell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

DECISION NO. WV83-3022

AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County.

AREA 5 - Cabell, Mason & Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell & Wayne Counties.

AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Marion, Lewis, Monongalia, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the towns of Leon, Rippley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Braxton, Lincoln, Summers, and Wyoming Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Tyler, Wetzel, Wirt, & Wood Counties.

DECISION NO. WV83-3022

AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral, Pendleton & Morgan Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (Remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

AREA 8 - Monongalia and Preston Counties.

AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marion & Monongalia Counties

AREA 2 - Barbour, Doddridge, Lewis, Preston, Taylor & Upshur Counties.

AREA 3 - Braxton, Gilmer, Randolph and Tucker Counties

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 8 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh, Summers and Wyoming Counties.

AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocahontas, Putnam, Roane, and Webster Counties.

DECISION NO. WV83-3022

CLASSIFICATION DEFINITIONS FOR POWER EQUIPMENT OPERATORS

GROUP 1 - All cranes, derricks and tower cranes with 250 feet of boom including mast and gibs or lifting capacity of 150 tons, and hoists 30,000 pound line pull or more, cableways

GROUP 2 - Those operating cranes, derricks, tower cranes and similar equipment with a lifting capacity over 15 tons, all shovels, draglines, clamshells, tow boats or work boats, caisson drilling rigs, backhoes 1½ cubic yard and over, endloaders 3 cubic yards and over, gradealls, all mechanics, side boom cat, and concrete mixing plants 3 cubic yards and over, hoist 18,000 pound line pull.

GROUP 3 - All cranes, derricks, tower cranes and similar equipment with a lifting capacity of 15 tons and under. Concrete mixing plant under 3 cubic yards, endloaders up to 3 cubic yards, backhoes up to 1½ cubic yards, hoist in excess of 5,000 pound line pull, core drills, two drum hoist, concrete pump standard guage locomotive.

GROUP 4 - Material hoist, single drum, fireman, deckhand, well point system, elevators, fork lifts, ross carrier, air compressor (600 CFM or over), high compression equipment, Loed handler.

GROUP 5 - Trencher, air tugger, two bag mixer, concrete batch plant, "A" frame truck, rubber tired scrapper, power grader, dozer, tractor and pan, push cat, all tractors, oilers on standard guage locomotive, locomotive cranes, truck cranes, grease truck operator and greaser, asphalt and concrete paving equipment operator, brakeman on cranes used for moving rail cars (when equipment is moving cars only).

GROUP 6 - Roller and compactor, 1 bag concrete mixer, Barber Green loader, mechanic helper, crawler crane oiler, air compressor, welding machine (gasoline powered), light plant, generator, conveyor, mechanical heater and pump operator.

AREA COVERED BY ROOFERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Boone, Cabell, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Putnam, Raleigh, Summers, Wayne, Webster & Wyoming Counties.

AREA 3 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

AREA 4 - Grant, Hardy & Mineral Counties.

DECISION NO. WV83-3022

AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fatette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Nicholas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the Leon, Ripley, and Hereford), Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, & Wyoming Counties.

AREA 4 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, station-wagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)

GROUP 2 - Tank truck (straight)

GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi-trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).

GROUP 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, mono-rail truck.

DECISION NO. WV83-3022

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1 CONT'D

GROUP 5 - Material checker and receiver, mechanics helpers.

GROUP 6 - Agitator or mixer truck (5 cubic yards and over).

GROUP 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS AREA 2

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, station-wagons, panel trucks.

GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).

GROUP 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), agitators or mixed trucks (up to 5 cubic yards), tank trucks (semi), monorails.

GROUP 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.

GROUP 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.

GROUP 6 - Mechanics.

TRUCK DRIVERS - AREA 3

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, station-wagons, panel trucks, flatboat material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards)

GROUP 2 - Tank truck (straight)

GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors), agitator or mixer trucks (Up to 5 cubic yards), tank truck (semi)

DECISION NO. WY83-3022

TRUCK DRIVERS - AREA 3 CONT'D

GROUP 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, mooi-rail truck.

GROUP 5 - Material checker and receiver, mechanics helpers.

GROUP 6 - Agitator or mixer truck (5 cubic yards and over).

GROUP 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS - AREA 4

GROUP 1 - Warehouse, yardmen, truck helpers, pick-ups, station-wagons, panel trucks, team 2 - up.

GROUP 2 - Flatbody material (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck).

GROUP 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boys trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).

GROUP 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractor (towing or pushing).

GROUP 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)

GROUP 6 - "A" Frame operator, mechanics (truck).

DECISION NO. WY83-3022

TRUCK DRIVERS - AREA 5

GROUP 1 - Flat bed material trucks, dump trucks, semi-dump trucks

GROUP 2 - Tank trucks (straight & semi)

GROUP 3 - Semi-trailers, tractor trailers

GROUP 4 - Pole trailer

GROUP 5 - Agitator & mixer trucks (up to 5 cubic yards)

GROUP 6 - Euclids, dumpsters, turna-ocker, ross carriers, athey wagons

GROUP 7 - Agitator & mixer trucks (over 5 cubic yards)

GROUP 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.

GROUP 9 - A-Frame

GROUP 10 - Mechanics

TRUCK DRIVERS - AREA 6

GROUP 1 - Warehousemen, yardmen, truck helpers

GROUP 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers

GROUP 3 - Flatboy material trucks, dump trucks, semi-trucks

GROUP 4 - Tank trucks (straight & semi)

GROUP 5 - Semi-trailers & tractor trailers

GROUP 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons

GROUP 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane

GROUP 8 - Mechanics

DECISION NO. WV83-3022

TRUCK DRIVERS - AREA 7

GROUP 1 - Dumpmen & flagmen

GROUP 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks

GROUP 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yards capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles), & form trucks

GROUP 4 - Dump trucks 10-15 yard capacity

GROUP 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, CLay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 3 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties

AREA 4 - Barbour, Doddridge, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker & Upshur Counties

AREA 5 - Marshall, Ohio & Wetzel Counties

AREA 6 - Brooke & Hancock Counties

AREA 7 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties

DECISION NO. WV83-3022

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. Paid Holidays: A through F.

c. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes $93.17 per month per employee employed 30 days or more.

e. Employer contributes $21.50 per week per employee.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $93.17 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $60.67 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

m. Employer contributes $6.00 per week per employee.

n. Employer contributes $26.00 per month per employee employed 30 days or more.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Worcester
DECISION NUMBER: MA83-3049 DATE: Date of Publication
Supersedes Decision Number MA81-3050 dated August 28, 1981, in 46 FR 43625
DESCRIPTION OF WORK: Building Construction Projects (including Residential Projects); Heavy and Highway construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.98	2.67+ a
BOILERMAKERS	18.16	3.441
BRICKLAYERS; CEMENT MASONS; PLASTERERS; and STONEMASONS:		
Area 1	13.80	4.24
Area 2	16.16	4.42
Area 3	18.06	2.52
Area 4	17.05	2.80
CARPENTERS; LATHERS; SOFT FLOOR LAYERS:		
Area 1	15.15	2.72
Area 2	15.86	3.60
ELECTRICIANS:		
Area 1	15.80	3.56+ 3%
Area 2	17.05	2.12+ 3%
Area 3	16.00	1.81+ 11%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.41	2.69+ b+c
Helpers	11.49	2.69+ b+c
Probationary Helpers	8.205	
GLAZIERS:		
Area 1	13.52	3.02
Area 2	17.45	2.14
IRONWORKERS	16.65	4.25
LINE CONSTRUCTION:		
Line	17.00	1.45+ 3.375% +d
Equipment Operator	14.45	1.45+ 3.375% +d
Driver Groundman	13.60	1.45+ 3.375% +d
Groundman	11.05	1.45+ 3.375% +d
MARBLE, TILE and TERRAZZO WORKERS:		
Area 1	16.50	3.45
MARBLE, TILE, and TERRAZZO FINISHERS	10.24	1.75
MILLWRIGHTS	16.90	3.95
PAINTERS:		
Areas 1, 2, and 3:		
Sign Painters, Erectors and Fabricators	12.55	1.84
Area 1:		
Brush and Tapers	13.56	2.59
Spray and Sandblasting	17.43	2.59
Swing and chair work and steel riding under 40 feet	13.75	2.59
Swing and chair work and steel riding 40 feet and over	14.06	2.59
Area 2:		
New Commercial Work:		
Brush	13.70	2.53
Spray and Sandblast	14.70	2.53
Steel	14.95	2.53
Repaint& Residential:		
Brush	13.15	2.53
Spray and Sandblast	14.15	2.53
Steel	14.40	2.53
Area 3:		
Brush	16.08	3.15
Wall Coverings	16.33	3.15
Spray; Sandblasting	17.08	3.15
Steel	18.20	3.15
Repaint	13.67	3.15
Residential	12.06	3.15
PILEDRIVERMEN	16.65	2.90
PLUMBERS and PIPEFITTERS:		
Area 1	15.50	5.88
Area 2	15.08	3.70
Area 3:		
Plumbers	17.33	2.35
Pipefitters	15.98	2.45
ROOFERS	15.76	4.25
SHEET METAL WORKERS:		
Area 1:	19.30	4.69
Residential	13.51	3.44
Area 2	15.66	4.79
SPRINKLER FITTERS	16.37	3.23

DECISION NO. MA83-3049 Page 2

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
BUILDING CONSTRUCTION:		
Group 1	13.20	2.40
Group 2	13.45	2.40
Group 3	13.70	2.40
Group 4	13.95	2.40
Group 5	14.20	2.40
WRECKING:		
Group 1	9.95	2.40
Group 2	13.05	2.40
Group 3	13.15	2.40
Group 4	13.30	2.40
Group 5	13.55	2.40
Group 6	13.80	2.40
HEAVY & HIGHWAY CONSTRUCTION:		
Group 1	13.20	2.40
Group 2	13.45	2.40
Group 3	13.95	2.40
Group 4	14.20	2.40
Tunnels, Caisson and Cylinder Work in Compressed Air:		
Group 5-A	18.70	2.40
Group 5-B	20.20	2.40
Group 5-C	20.35	2.40
Group 5-D	20.43	2.40
Group 5-E	20.93	2.40
Free Air Operation:		
Shield driven and Liner Plate in Free Air:		
Group 6-A	14.50	2.40
Group 6-B	13.65	2.40
Cleaning Concrete and Caulking Tunnel (both new and existing):		
Group 6-C	13.65	2.40
Group 6-D	13.975	2.40
Rock Shaft, Concrete Lining of same and Tunnel in Free Air:		
Group 6-E	13.40	2.40
Group 6-F	13.55	2.40
Group 6-G	13.65	2.40
Group 6-H	14.50	2.40
LABORERS: (Cont'd)		
OPEN AIR CAISSON, UNDERPINNING and TEST BORING		
INDUSTIES:		
Open Air Caisson, Underpinning Work and Boring Crew:		
Group 1-A	13.20	2.40
Group 1-B	13.95	2.40
Test Boring:		
Group 2-A	13.20	2.40
Group 2-B	14.07	2.40
POWER EQUIPMENT OPERATORS:		
AREA 1:		
BUILDING CONSTRUCTION:		
Group 1	15.38	2.30+ e
Group 2	15.18	2.30+ e
Group 3	14.98	2.30+ e
Group 3-A	14.61	2.30+ e
Group 4	13.08	2.30+ e
Group 5	12.38	2.30+ e
Group 6	11.23	2.30+ e
Group 7	16.13	2.30+ e
Group 8	12.405	2.30+ e
Group 9	15.96	2.30+ e
Group 10	15.88	2.30+ e
Group 11	16.38	2.30+ e

DECISION NO. MA83-3049	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd) AREA 1 - (Cont'd):		
HEAVY and HIGHWAY CONSTRUCTION:		
Group 1	15.28	2.30+ f
Group 2	15.08	2.30+ f
Group 3	14.88	2.30+ f
Group 3-A	14.51	2.30+ f
Group 4	12.98	2.30+ f
Group 5	12.28	2.30+ f
Group 6	11.13	2.30+ f
Group 7	16.03	2.30+ f
Group 8	12.305	2.30+ f
Group 9	15.86	2.30+ f
Group 10	15.78	2.30+ f
Group 11	16.28	2.30+ f

Page 3	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd) AREA 2:		
BUILDING, HEAVY, HIGHWAY and MARINE CONSTUCTION:		
GROUP 1	17.61	2.81+ f
Hourly premium for boom lengths including jib: Over 150 ft.: + $0.64; Over 185 ft.: + 1.14; Over 210 ft.: + 1.59; Over 250 ft.: + 2.41; Over 295 ft.: + 3.35		
GROUP 2	17.49	2.81+ f
GROUP 3	14.78	2.81+ f
GROUP 4	16.09	2.81+ f
GROUP 5	13.13	2.81+ f
GROUP 6	13.92	2.81+ f
TRUCK DRIVERS:		
Group 1	12.86	3.00+ g+h
Group 2	13.03	3.00+ g+h
Group 3	13.10	3.00+ g+h
Group 4	13.22	3.00+ g+h
Group 5	13.32	3.00+ g+h
Group 6	13.61	3.00+ g+h
Group 7	13.90	3.00+ g+h

WELDERS: Receive rate for craft to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holiday: Day before Christmas, providing the employee works the three days prior to the holiday
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit
c. Paid Holidays: A through F and the Friday after Thanksgiving
d. Paid Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the holiday
e. Paid Holidays: A through F, Washington's Birthday and Veterans Day
f. Paid Holidays: A through F, Washington's Birthday, Columbus Day and Veterans Day
g. Paid Holidays: A through F, Washington's Birthday, Patriots Day, Columbus Day and Veterans Day
h. Paid Vacation: 4 months to 1 year - half (1/2) day's pay per month; 1-5 years - 1 week; 5-10 years - 2 weeks; 10 years or more - 3 weeks. Employee must have received pay for 120 days during last year of employment

AREA DESCRIPTIONS

BRICKLAYERS; CEMENT MASONS; PLASTERERS; and STONEMASONS:
Area 1: Warren Township
Area 2: Bopedale, Milford, and Southboro Townships
Area 3: Ashburnham, Athol, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Wesminister and Winchendon Townships
Area 4: Remainder of County

CARPENTERS, LATHERS, and SOFT FLOOR LAYERS:
Area 1: Hardwick, Warren, and West Brookfield Townships
Area 2: Remainder of County

ELECTRICIANS:
Area 1: Warren, and West Warren Townships
Area 2: Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Phillipston, Wesminister, and Winchendon Townships
Area 3: Remainder of County

GLAZIERS:
Area 1: Warren, and West Warren Townships
Area 2: Remainder of County

AREA DESCRIPTIONS (Cont'd)

MARBLE, TILE, and TERRAZZO WORKERS:
Area 1: Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, and Westminister Townships

PAINTERS:
Area 1: Warren and West Warren Townships
Area 2: Hopedale, Mendon, Milford, Southboro, Upton, and Westboro Townships
Area 3: Remainder of County

PLUMBERS and PIPEFITTERS:
Area 1: Hopedale and Southboro
Area 2: Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Royalston, Templeton, Westminister, and Windendon Townships
Area 3: Remainder of County

SHEET METAL WORKERS:
Area 1: Harvard and Lancaster Townships
Area 2: Remainder of County

POWER EQUIPMENT OPERATORS:
Area 1: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, East Brookfield, North Brookfield, Oakham, Barre, Templeton, Winchendon, Strubridge, West Brookfield, and Warren Townships
Area 2: Remainder of County

LABORERS CLASSIFICATONS
BUILDING CONSTRUCTION

Group 1: Laborers, Carpenters Tenders

Group 2: Jackhammer Operator; Pavement Breakers; Asphalt Rakers; Carbide Core Drilling Machine; Chain Saw Operator; Pipelayer; Barco Type Jumping Tampers; Laser Beam; Concrete Pump; Mason Tenders; Motorized Mixers; Ride-on Motorized Buggy; Fence and Beam Rail Erectors

Group 3: Air Track; Block Pavers; Rammers; Curb Setter

Group 4: Blasters, Powdermen

Group 5: Pre-cast Floor and Roof Plank Erectors

WRECKING CONSTRUCTION

Group 1: Yardmen Laborers

Group 2: Yardmen Burners; Sawyers

Group 3: Wrecking Laborers

Group 4: Adzeman

LABORERS CLASSIFICATIONS (Cont'd)

WRECKING CONSTRUCTION (Cont'd)

Group 5: Burners; Jackhammers

Group 6: Asbestos Removers; Small Front Loaders on Tracks and Bobcat Operators

HEAVY and HIGHWAY CONSTRUCTION

Group 1: Laborers; Carpenter Tenders; Cement Finisher Tenders

Group 2: Asphalt Rakers; Fence and Guard Rail Erector; Laser Beam Operator; Mason Tender; Pipelayer; Pneumatic Drill Operator; Pneumatic Tool Operator, Wagon Drill Operator

Group 3: Air Track Operator; Block Pavers; Rammer; Curb Setters

Group 4: Blasters, Powdermen

Tunnel, Caisson and Cylinder Work in Compressed Air:

Group 5-A: Powder Watchmen; Top Men on Iron Bolt; Change House Attendant

Group 5-B: Brakeman; Trackman; Groutman; Laborer; Outside Lock Tender; Lock Tender; Guage Tenders

Group 5-C: Motormen

Group 5-D: Blaster

Group 5-E: Mucking Machine Operator

Free Air Operation - Shield Driven and Liner Plate Tunnel in Free Air:

Group 6-A: Miners; Miner Welder; Conveyor Operator; Motormen; Mucking Machine Operator; Nozzle Men; Grout Men; Shaft and Tunnel Steel and Rodmen; Shield and Erector Arm Operators

Group 6-B: Brakemen, Trackmen

Cleaning Concrete and Caulking Tunnel (both new and existing):

Group 6-C: Concrete Workers; Strippers and Form Movers (wood and steel)

Rock Shaft, Concrete Lining of Same and Tunnel in Free Air:

Group 6-E: Change House Attendants

Group 6-F: Laborers; Topside

Group 6-G: Brakeman; Trackman; Tunnel Laborers; Shaft Laborees

Group 6-H: Miner, Cage Tender; Bellman

LABORERS CLASSIFICATIONS (Cont'd)

OPEN AIR CAISSONS, UNDERPINNING And TEST BORING INDUSTRIES:

Includes installation and performance of caissons of all types, underpinning, soil test borings, core borings, diamond drill soundings, wash borings, auger borings, shot drilling, grouting (cement, chemical, etc.), installation of earth and rock anchors, tiebacks, ground water observation wells and monitoring wells, installation of instrumentation, drilling and installation of horizontal drains, lagging (carrying of bands and settling bands in place), installation and extraction of grout pipes, pit work, hand excavation and labor required in piledriving and related work, welding of caissons not driven by pile driving equipment, pouring of concrete piles and caissons of all types, cutting-off concrete piles and clean-up:

Air Air Caisson, Underpinning Work and Boring Crew:

Group 1-A: Laborers; Top Man

Group 1-B: Bottom Man

Test Boring:

Group 2-A: Laborers

Group 2-B: Driller

POWER EQUIPMENT OPERATORS CLASSIFICATIONS
AREA 1

BUILDING CONSTRUCTION

Group 1: Shovels; Cranes (including all Tower, Climbing and Bridge Cranes, as used in Building Construction); Hydraulic Cranes, 10 ton capacity or over; Draglines; Derricks; Elevators with Chicago Boom; Backhoes; Gradalls; Elevating Graders; Pile Driving Rigs; Concrete Road Pavers; all three Drum Hoisting and Trenching Machines; Belt-type Loaders; Front End Loaders, 5½ yds. or over; Dual Drum Paver; Automatic Grader (i.e. C.M.I.); Combination Backhoe/Loader, 3/4 yd. or over; Jet Engine Dryer; Tree Shredder; Post Hole Digger; Post Hole Hammer; Post Extractor; Truck-mounted Concrete Pump with Boom; Roto-mill

Group 2: Rotary Drill (with mounted Compressor); Compressor House (3 to 6 Compressors); Rock and Earth Boring Machines (excluding McCarthy and similar Drills); Graders; Front End Loaders, 4 yds. to 5½ yds.; two Drum Hoists; High Fork Lifts with capacity of 15 ft. and over; Scraper, 21 yds. and over (struck load); Sonic Hammer Console; Road Planer; Cal Tracks; Ballast Regulators; Rail Anchor Machines; Switch Tampers

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
AREA 1 (Cont'd)

BUILDING CONSTRUCTION (Cont'd)

Group 3: Combination Backhoe/Loader, up to 3/4 yd. Hoe; Bulldozers; Push Cats; Scrapers, up to 21 yds. (struck load) (self-propelled or tractor drawn); Tireman; Front End Loaders, up to 4 yds.; Asphalt Paver; Well Drillers; Mechanics; Welder; Pumpcrete Machines; Concrete Pumps and similar type Pumps; Engineer or Fireman on High Pressure Boiler (on job); Self-loading Batch Plant; Well Point Operators (including installing); Electric Pumps used in Well Point System; Pumps, 12 inches and over (total discharge); Compressor, one or two 900 cu. ft. and over; Engineers in charge of Powered Grease Truck; all Automatic Elevators (permanent or temporary)(operated manually or remote control) (not to be confused with elevators operating from conventional hoist, 1, 2, or 3 drum); Grout Pumps; Boom Truck; Hydraulic Cranes, under 10 ton

Group 3-A: Asphalt Rollers; Self-powered Rollers and Compactors; Tractor without blade drawing Sheepsfoot Roller; Rubber Tire Roller; Vibratory Roller, or other type of Compactors including Machines for pulverizing and aerating Soil

Group 4: Single Drum Hoist; Power Pavement Breakers; Concrete Pavement Finishing Machines; Two Bag Mixers with Skip; McCarthy and similar Drills; Batch Plants (not self-loading); Bulk Cement Plants; Self-propelled Material Spreaders; A-Frame Trucks; Fork Lifts, up to 15 ft.; 3 or more 10 KW Light Plants; 30 KW or more Generators

Group 5: Compressors (one or two)(315 cu. ft. to 900 cu. ft.); Pumps, 4 inches to 12 inches (total discharge)

Group 6: Compressors, up to 315 cu. ft.; Small Mixers; Pumps, up to 4 inches; Power Heaters, except when 3 or more Heaters are used on one job, classification 4 rate shall be paid; Welding Machines, except when 3 or more Welding Machines are used on one job, classification 4 rate will be paid; Conveyors; Oiler; Helpers on Grease Trucks with hand greasing equipment

Group 7: Truck Crane Crews

Group 8: Oiler

Group 9: Master Mechanic

Group 10: Boom lengths over 184 ft. including Jib

Group 11: Boom lengths over 225 ft., including Jib

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
AREA 1 (Cont'd)

HEAVY and HIGHWAY CONSTRUCTION

Group 1: Shovels; Crawler and Truck Cranes; Derricks; Backhoes; Trenching Machines; Elevator Graders; Belt-type Loaders; Gradalls; Pile Drivers; Concrete Pavers, On-site Processing Plant (Engineer in charge); Dragline; Clamshell; Cableways; Shaft Hoists; Mucking Machines; Front End Loader, 5½ yds. and over Tower Cranes; Self-propelled Hydraulic Cranes, 10 tons and over; Dual Pavers; Automatic Grader, Excavator (C.M.I. or equal); Scrapers towing Pan or Wagon; Tandem Dozers or Push Cats (2 units in Tandem); Welder using Semi-automatic Welding Machine; Shotcrete Machine; Tunnel Boring Machine; Combination Back Hoe/Loader, 3/4 yd. Hoe or over; Jet Engine Dryer; Tree Shredder; Post Hole Digger; Post Hole Hammer; Post Extractor; Truck mounted Concrete Pumps with boom; Roto-mill

Group 2: Rotary Drill, with mounted Compressor; Compressor House, 3 to 6 Compressors; Rock and Earth Boring Machines, excluding McCarthy and similar Drills; Grader; Front End Loaders, 4 yds. to 5½ yds.; Scraper, 21 yds. and over (struck load); Forklifts, 7 ft. lift and over or 3 ton capacity and over; Sonic Hammer Console; Road Planer; Cal Tracks; Ballast Regulators; Rail Anchor Machines; Switch Tampers

Group 3: Bulldozer; Push Cats; Scrapers, up to 21 yds., struck load, self-propelled or Tractor Drawn; Self-powered Asphalt Paver; Front End Loaders, up to 4 yds.; Mechanics, Welders; Well Driller; Pumpcrete Machine; Engineer or Fireman on High Pressure Boiler (on job); Self-loading Batch Plant (on job); Well Point Operators; Electric Pumps used in Well Point System; Tireman; Pumps, 16 in. or over total discharge; Compressors (1 or 2) 900 cu. ft. and over; Powered Grease Truck; Tunnel Locomotives and Dinkeys; Grout Pumps; Hydraulic Jacks (jacking pipe, slip forms, etc.); Boom Truck, self-propelled Hydraulic Cranes, up to 10 ton; Combination Backhoe Hoe/Loader, up to 3/4 yd. Hoe

Group 3A: Asphalt Rollers; Self-powered Rollers and Compactors; Tractor without blade drawing Sheeps Foot Roller; Rubber Tire Roller; Vibratory Roller or other type of Compactors including Machines for pulverizing and aerating soil

Group 4: Hoists; Conveyors; Power Pavement Breaker; Self-propelled Material Spreader; Self-powered Concrete Finishing Machine; Two bag Mixer with Skip; McCarthy and similar Drills; Batch Plant (not self-loading); Bulk Cement Plant; 3 or more 10 KW Light Plants; 30 KW or more Generators

Group 5: Compressor, 315 cu. ft. to 900 cu. ft., 1 or 2; Pumps, 4" to 16" total discharge

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
AREA 1 - HEAVY and HIGHWAY CONSTRUCTION (Cont'd)

Group 6: Compressor, up to 315 cu. ft.; Small Mixers with Skip; Oiler; Pumps up to 4"; Grease Truck; Helper on powered Grease Trucks; Power Heaters; Welding Machines, when 3 or more Welding Machines are used, Classification 4 rate shall be paid; A-Frame Trucks; Forklifts, up to 7 ft. Lift and up to 3 ton capacity; Hydro Boom; Power Safety Boat

Group 7: Truck Crane Crews

Group 8: Oiler

Group 9: Master Mechanic

Group 10: Boom Lengths over 184 feet, including Jib

Group 11: Boom Lenghts over 225 feet, including Jib

AREA 2

BUILDING CONSTRUCTION

Group 1: Cranes; Shovels; Truck Cranes; Cherry Pickers; Dragline; Trench Hoes; Backhoes; Three Drum Machines; Derricks; Pile Drivers; Elevator Towers; Hoists; Gradalls; Shovel Dozers; Front End Loaders; Pork Lifts; Augers; Boring Machines; Rotary Drills; Post Hole Hammers; Post Hole Diggers; Pumpcrete Machines; Asphalt Plant, on site; Concrete Batching and/or Mixing Plant, on site; Crusher Plant, on site; Paving Concrete Mixers; Timber Jacks

Group 2: Sonic or Vibratory Hammers; Graders; Tandem Scrapers; Concrete Pumps; Bulldozers; Tractors; York Rakers; Mulching Machines; Portable Steam Boiler; Portable Steam Generators; Rollers; Spreaders; Tampers (self-propelled or tractor drawn); Asphalt Pavers; Mechanics Maintenance; Paying Screed Machines; Stationary Steam Boilers; Paving Concrete Finishing Machines; Cal track; Ballast Regulators; Switch Tampers; Rail Anchor Machinery; Tire Trucks (when operated by the employer on the job site)

Group 3: Pumps, 1-3 grouped; Compressors; Welding Machines, 1-3 grouped; Generators; Concrete Vibrators; Lighting Plants; Heaters (power driven, 1-5); Well-point Systems, operating and installing; Syphones/Pulsometers; Concrete Mixers; Valves controlling Permanent Plant, air or steam; Conveyors; Jackson type Tampers; Single Diaphragm Pump; Lighting Plants

Group 4: Assistant Engineers (Fireman)

Group 5: Assistant Engineers (other than Truck Cranes and Gradalls)

Group 6: Assistant Engineers (on Truck Cranes and Gradalls)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
AREA 2 (Cont'd)

HEAVY and HIGHWAY CONSTRUCTION

Group 1: Power Shovels; Cranes; Truck Cranes; Derricks; Pile Drivers; Trenching Machines; Mechaniclal Hoist Pavement Breakers; Cement Concrete Pavers; Draglines; Hoisting Engines; Three Drum Machines; Pumpcrete Machines; Uke Loaders; Shovel Dozers; Front End Loaders; Mulching Machines; Shaft Hoists; Steam Engine; Backhoe; Gradalls; Cable Ways Fork Lifts; Cherry Pickers; Boring Machines; Rotary Drills; Post Hole Hammer; Post Hole Diggers; Asphalt Plant on job site, Concrete Batching and/or Mixing Plant on job site; Crusher Plant on job site; Paving Concrete Mixers; Timber Jacks

Group 2: Sonic or Vibratory Hammers; Graders; Scrapers; Tandem Scrapers; Bulldozer; Tractors; Mechanic Maintenance; York Rakes; Mulching Machines Paving Screed Machines; Stationary Steam Boilers; Paving Concrete Finishing Machines; Grout Pumps; Potable Steam Boilers; Portable Steam Generators; Rollers; Spreaders; Asphalt Pavers; Locomotives or Machines used in place thereof; Tampers, self-propelled or tractor drawn; Cal Tracks; Ballast Regulators; Rail Anchor Machines; Switch Tampers

Group 3: Pump, 1-3 grouped; Compressors; Welding Machine, 1-3 grouped; Generators; Lighting Plants; Heaters, power driven, 1-5; Syphons/Pulsometers; Concrete Mixers; Valves controlling Permanent Plant, air or steam; Conveyors; Wellpoint System, operating and installing

Group 4: Assistant Engineers (Firemen)

Group 5: Assistant Engineers (other than Truck Cranes and Gradalls)

Group 6: Assistant Engineers (on Truck Cranes and Gradalls)

MARINE CONSTRUCTION

Group 1: Shovels; Cranes; Truck Cranes; Cherry Pickers; Derricks; Pile Drivers two or more Drum Machines; Lighterns; Derrick Boats; Trenching; Mechanic Hoists; Pavement Breakers; Cement Concrete Pavers; Draglines; Hoisting Engines; Pumpcrete Machines; Elevating Graders; Shovels; Dozers; Front End Loaders; Backhoe; Gradalls; Cable Way; Boring Machines; Rotary Drills; Post Hole Hammer; Post Hole Diggers; Fork Lifts; Timber Jacks; Asphalt Plant (on site); Concrete Batching and/or Mixing Plant (on site); Crusher Plant (on site); Paving Concrete Mixers

Group 2: Portable Steam Boilers; Portable Steam Generators; Sonic or Vibratory Hammer; Graders; Scrapers; Tandem Scrapers; Concrete Pumps; Bulldozers; Tractors; York Rakers; Mulching Machines; Rollers; Spreader; Tamper, self-propelled or tractor drawn; Asphalt Pavers; Concrete Mixers with side Loaders; Mechanics, maintenance; Cal Track; Ballast Regulator; Switch Tampers; Rail Anchor Machines; Tire Trucks

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
AREA 2 - MARINE CONSTRUCTION (Cont'd)

Group 3: Pumps; Compressors; Welding Machines; Heaters (power driven); Valves controlling Permanent Plant, air or steam; Well Point Systems; Augers, powered by Independence Engines and attached to Pile Drivers; Hydraulic Saws; Generators; Lighting Plants; Syphons-Pulsometers; Concrete Mixers; Conveyors

Group 4: Assistant Engineers (Firemen)

Group 5: Assistant Engineers (other than Truck Cranes and Gradalls)

Group 6: Assistant Engineers (on Truck Cranes and Gradalls)

TRUCK DRIVERS

Group 1: Station Wagons; Panel Trucks and Pickup Trucks

Group 2: Two Axle Equipment; Helpers on Low Bed when assigned at the discretion of the employer; Warehousemen; Forklift Operators

Group 3: Three axle equipment and Tiremen

Group 4: Four and five axle equipment

Group 5: Specialized earth moving equipment, under 35 tons other than conventional type trucks; Low Bed; Vac-haul; Paving Restoration equipment; Mechanics

Group 6: Specialized earth moving equipment over 35 tons

Group 7: Trailers for earth moving equipment (double hookup)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

[FR Doc. 83-30900 Filed 11-17-83; 8:45 am]
BILLING CODE 4510-27-C

Reader Aids

Federal Register

Vol. 48, No. 224

Friday, November 18, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3 52281

3 CFR

Administrative Orders:

Notices:

November 4, 1983 51277

Presidential Determinations:

No. 83-10 of September 30, 1983 51607

Executive Orders:

April 15, 1910 (Revoked in part by PLO 6487) 50894

July 2, 1910 (See PLO 6487)

December 28, 1910 (Revoked in part by PLO 6487) 50894

January 24, 1914 (Revoked in part by PLO 6487) 50894

7594 (Revoked in part by PLO 6489) 50895

12170 (Continued by Notice of November 4, 1983) 51277

12448 51281

Proclamations:

2417 (See PLO 6489) 50895

5123 50699

5124 51275

5125 51279

5126 51425

5127 51605

5 CFR

534 52025

7 CFR

2 ..... 50875, 51141

29 50501

371 50295

905 51765

906 50501

907 ..... 51609, 52466

910 ..... 50701, 50877, 51634, 52281, 52429

927 52027

931 52027

966 52027

971 52027

989 52028

1131 52429

1290 51427

1421 51765

Proposed Rules:

42 51635

225 50743

400 51635

424 52067

434 52467

435 52314

436 51638

438 52471

1006 52318

1012 52318

1036 50549

1290 52071

1488 51490

1910 51312

1924 51312

1930 51312

1941 51312

1945 51312

8 CFR

3 52432

100 52029

103 ..... 51142, 51430

109 51142

214 ..... 51283, 52432

238 ..... 51431, 52029

9 CFR

81 ..... 51422, 52420

92 ..... 50701, 52030

327 50296

Proposed Rules:

201 52474

203 52474

10 CFR

2 52282

50 50878

71 51903

95 51903

761 50296

Proposed Rules:

2 50550

50 50746

51 50746

211 50824

440 51068

11 CFR

114 ..... 50502, 52432

12 CFR

26 50296

30 51283

212 50296

220 51768

330 52030

348 50296

563f 50296

711 50296

Proposed Rules:

Ch. III 50746

304 51155

330 50339

336 51317
337 50339
349 51155
563 51270
564 50339
571 51270
701 52475

13 CFR

Proposed Rules:
111 51642

14 CFR

39 ..... 50508, 50879–50886, 51287, 51431, 51432, 52287
71 ..... 50510, 50887, 51433–51436, 51903–51905, 52287, 52288
73 52287
75 ..... 50510, 52288
91 50510
97 ..... 50512, 51609
159 51416
211 51288
385 51144

Proposed Rules:
Ch. I 50553, 52480
21 52010
23 52010
36 52010
39 ..... 50341, 50899, 52319, 52321
71 ..... 52322, 52323
91 52010
135 52010
380 50900
399 50900
1214 52480

15 CFR

17a 52289
19 52289
369 52291

16 CFR

13 ..... 50702–50704, 51768, 51769
305 52291
1017 50514
1406 50705

17 CFR

33 51288
145 50887
211 51769
270 52433
275 50526

Proposed Rules:
3 50554
10 50554
230 ..... 51155, 51328
240 51930

18 CFR

157 51436
271 ..... 51446, 52031

Proposed Rules:
271 ..... 52482, 52483

19 CFR

12 52435
111 51288
191 52031

Proposed Rules:
10 50342
19 50342
24 50342
113 50342
125 50342
141 50342
142 50342
143 50342
144 50342
146 50342
151 51784

20 CFR

200 51447
202 51447
250 51447
259 51447
260 51447
262 51447
350 51447
362 51447
363 51447
396 50308
602 50662
603 50662
604 50662
621 50527
626 52437
651 50662
652 50662
653 ..... 50527, 50662
654 50527
655 50527
656 50527

21 CFR

5 50527
12 51770
74 ..... 50311, 51145
81 ..... 50311, 51145
82 ..... 50311, 51145
133 51906
136 51448
172 51906
176 51770
178 51611
182 ..... 51146–51151, 51612–51615, 51906–51910, 52032, 52438–52445
184 ..... 51146–51151, 51612–51617, 51906–51911, 52032, 52438–52447
193 ..... 50528, 51453
430 51290
436 ..... 51290, 51292, 51912
440 ..... 51292, 51294
442 51292
446 ..... 51290, 51292
448 51292
449 51292
450 51912
452 51292
510 52448
520 50528
522 50887
546 51292
558 50707
561 ..... 50528, 51453

Proposed Rules:
161 51932
182 52323
184 52323
207 50358
210 50358
225 50358
226 50358
341 52079
501 50358
510 50358
514 50358
558 50358
1304 51329

22 CFR

514 50707

23 CFR

650 52292

Proposed Rules:
Ch. 1 51330

24 CFR

26 51295
200 51295
203 ..... 51295, 51455
205 51295
207 ..... 51295, 51455
213 ..... 51295, 51455
215 51619
220 51455
221 ..... 51295, 51455, 51619
232 ..... 51295, 51455
234 51455
236 ..... 51455, 51619
241 ..... 51295, 51455
242 ..... 51295, 51455
244 ..... 51295, 51455
570 51295
841 52297
883 51296
885 50888
890 51619

Proposed Rules:
571 51935
865 51785

25 CFR

700 51771

26 CFR

1 ..... 50711, 52033
4 52033
35a 52033

Proposed Rules:
1 ..... 50751, 51330, 51331, 51645, 51788, 51936, 51940, 52079–52087, 52484
5c 51645
6a 50751
11 52081
13 ..... 50567, 51788, 52081
52 50775
301 ..... 51788, 52087

27 CFR

Proposed Rules:
4 ..... 51333, 52088

28 CFR

0 ..... 50712, 50713, 52449
3 50713
8 50713
9 50713
9a 50713
547 50478
548 50478

29 CFR

1 50312
4 50529
5 50312
1601 51772
1910 51086

Proposed Rules:
1908 50902

30 CFR

916 52297
913 51619
936 52298
948 52034

Proposed Rules:
901 51941
915 51457
917 52333
920 51158
926 51334
934 ..... 51458, 51459
942 ..... 51335, 51461, 51646
948 52092
950 51465

32 CFR

150 51467

Proposed Rules:
1–39 50872
95 51490
505 50775

33 CFR

90 51621
165 ..... 50714, 51622

Proposed Rules:
110 ..... 50359, 50360
117 52334

35 CFR

133 51472

36 CFR

223 50889

Proposed Rules:
7 52484

38 CFR

3 50313
17 51913
21 50529
36 51152

Proposed Rules:
18 52485
21 ..... 50568, 50569

39 CFR

111 ..... 52054, 52300
601 50889
3001 ..... 50715, 51337

40 CFR

35 51400
51 50686
52 ..... 50530, 50568, 51153, 51472, 51480, 51622, 51942, 51944, 52054, 52055, 52302, 52450, 52451
80 50482
81 ..... 50316, 52057
86 52170
120 51400
123 51298
131 51400
180 ..... 50317, 50532, 50533, 51485–51487, 52304
228 50317

271 50889
420 51773
434 50321
439 50322
465 52380
468 50717
761 52304

Proposed Rules:

52 ..... 51159, 51338, 51339, 51794, 52093, 52094, 52491
60 ..... 50670, 51900
61 51064
81 ..... 50361, 51160, 52094
85 50902
122 52279
133 ..... 52258, 52272
180 ..... 50363, 52097
271 50776
403 51647
420 51647
421 50906
761 ..... 50486, 52402

41 CFR

Ch. 7 51488
5-2 51299
5-3 51299
5-16 51299
101-36 50890
101-47 50892

Proposed Rules:

1-15 50873
3-1 51648

42 CFR

Proposed Rules:

36 52410
55a 50363
71 50777

43 CFR

Public Land Orders:

422 51153
2249 (Revised in part by PLO 6489) 50895
6439 50719
6440 50893
6477 50322
6481 51914
6485 50893
6486 50894
6487 50894
6488 50895
6489 50895
6490 50896
8360 52058

44 CFR

64 ..... 51914, 52058
67 50719
205 51056

Proposed Rules:

67 ..... 50366, 50777, 50778, 51945
151 50778

45 CFR

96 52059
302 51916
801 50721

Proposed Rules:

1076 51760

46 CFR

2 50996
31 50996
32 50996
35 50996
37 50996
42 50996
46 50996
56 50996
71 50996
72 50996
73 50996
74 50996
75 50996
78 50996
79 50996
91 50996
93 50996
97 50996
99 50996
106 50996
107 50996
108 50996
109 50996
111 50996
151 50996
153 50996
154 50996
163 50996
167 50996
168 50996
170 50996
171 50996
172 50996
173 50996
174 50996
177 50996
178 50996
179 50996
185 50996
189 50996
190 50996
191 50996
196 50996

Proposed Rules:

10 51650
35 51650
50 50781
52 50781
53 50781
54 50781
63 50781
157 51650
162 50781
175 51650
185 51650
186 51650
187 51650

47 CFR

1 51917
2 ..... 50322, 50722, 50897, 51302
17 51917
18 51302
21 ..... 50322, 50722, 50897
22 50722
23 50722
31 ..... 50534, 51154
61 51773
63 52452
64 51773
73 ..... 51304, 51623-51627, 51775, 52305
74 ..... 50322, 50722, 50897
78 50722
81 ..... 50548, 50722
83 ..... 50548, 50739
87 ..... 50548, 50722, 52464
90 ..... 50722, 51917
94 ..... 50322, 50722, 50897
97 51917

Proposed Rules:

Ch. I 51340
1 ..... 51493, 52492
22 51493
61 52492
64 51650
73 ..... 50571-50585, 50907 51161, 51652-51663, 52335-52337

48 CFR

Proposed Rules:

5 50907

49 CFR

171 ..... 50440, 50444
172 ..... 50440, 50444, 52306
173 ..... 50440, 50444, 52306
174 ..... 50440, 50444
175 50444
176 50440
177 50440
178 50440
179 50440
509 51310
567 51308
571 52061
660 52313
661 52313
1003 51777
1039 ..... 50897, 51311
1043 51777
1084 51777
1118 ..... 51627, 52465
1162 ..... 51627, 52465
1163 ..... 51627, 52465
1175 52066
1176 52066

Proposed Rules:

Ch. X 51664
192 50908
571 ..... 51795, 52098
1162 51796

50 CFR

645 52066
648 52066
663 51782

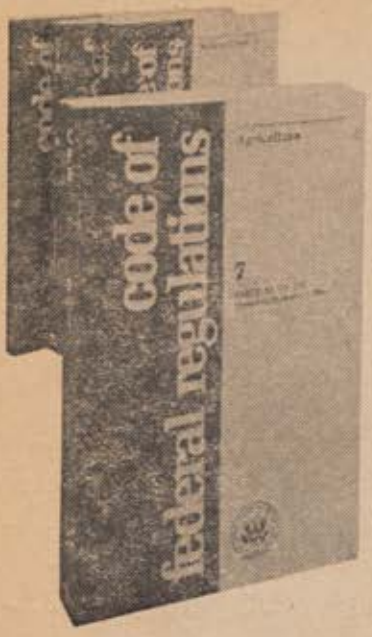
Proposed Rules:

17 ..... 50909, 51736
450 52099
451 52099
452 52099
453 52099
611 ..... 50379, 50586, 50782 52338
665 51797
672 50379
675 50586

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing November 10, 1983



Just Released

Code of Federal Regulations

Revised as of July 1, 1983

Quantity	Volume	Price	Amount
_____	Title 29—Labor (Parts 0 to 99) (Stock No. 022-003-95186-5)	$8.00	$_____
_____	Title 29—Labor (Parts 1900 to 1910) (Stock No. 022-003-95190-3)	8.50	_____
_____	Title 30—Mineral Resources (Parts 0 to 199) (Stock No. 022-003-95193-8)	7.00	_____
		Total Order	$_____

A cumulative checklist of CFR issuances for 1982-83 appears every Monday in the Federal Register in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No._____

VISA

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		