AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-1-84
Vol. 49 No. 85
Pages 18453-18720

federal register

Tuesday
May 1, 1984

G.S.A.
452-926
10-Vols

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Environmental Protection Agency

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Federal Communications Commission

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220, 225, and 226

Child Nutrition Labeling Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes an Appendix C to the regulations for each of the following programs: National School Lunch Program, School Breakfast Program, Summer Food Service Program for Children, and Child Care Food Program to establish a Child Nutrition (CN) Labeling Program. The Department is issuing this appendix to formalize an existing voluntary technical assistance program which has operated without benefit of public scrutiny and which has grown over the past few years. This final rule (1) formally establishes a CN Labeling Program, (2) establishes product eligibility, (3) establishes a logo or a distinctive border which encloses a label statement, (4) establishes a warranty against audit claims for products that are CN labeled, (5) authorizes the Secretary to issue guidance material on the CN Labeling Program, and (6) defines the parts of the CN label statement.

DATES: *Effective date:* July 2, 1984.

Implementation period: All new CN labels submitted after the effective date of this rule must carry the CN logo and comply with all requirements set forth in this final rule. However, manufacturers may continue to use all currently approved CN labels for 18 months following the effective date of this rule. During this period, products with these CN labels will carry the warranty against audit claims without the use of the CN logo, provided that they are produced under an appropriate U.S. Department of Agriculture or U.S. Department of Commerce Federal inspection program. All CN labeled products must carry the new CN label by January 2, 1986.

FOR FURTHER INFORMATION CONTACT: Kathy Molino or Chris Clay at (703) 756–3556 or write to Cynthia H. Ford, Branch Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. The CN Labeling Program has been in existence since the early 1970's and is currently administered by the Food and Nutrition Service (FNS) in conjunction with the Food Safety and Inspection Service (FSIS) and the Agricultural Marketing Service (AMS) of the United States Department of Agriculture (USDA), and the National Marine Fisheries Service of the United States Department of Commerce (USDC). The application procedures were established under existing FSIS, USDC, and Food and Drug Administration (FDA) labeling requirements. Final labeling authority remains with these agencies. Additionally, the CN Labeling Program will remain a voluntary technical assistance program. This final rule merely establishes authorization in program regulations.

The rule has also been reviewed with regard to the provisions of Pub. L. 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that the rule does not have a significant economic impact on a substantial number of small entities.

Reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB No. 0584–0320) under the Paperwork Reduction Act.

Background

The Child Nutrition (CN) Labeling Program has been in existence since the early 1970's as a voluntary technical assistance program. Over the years the program has come to play a significant role in the food service management of the Child Nutrition Programs and has been supported by both industry and food service authorities. Essentially, the CN Labeling Program involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward meal pattern requirements and a review of the CN label statement to ensure its accuracy. Products currently CN labeled include meat and poultry products, fish, juice drinks and juice drink products and a few miscellaneous items such as cheese pizzas and egg products. All of these products, with the exception of cheese pizza, are produced under Federal inspection by USDA or USDC.

Since the inception of the CN Labeling Program, the labeling procedures employed by FNS have evolved on a case-by-case basis to meet new situations. Thus, to date, the CN Labeling Program has been administered by FNS without formal regulations and benefit of public scrutiny. On February 25, 1983, the Department issued a proposed rule which would formally establish a CN Labeling Program. A total of 60 days was afforded to the general public in which it could comment on the proposed rule.

Comment Analysis

On April 26, 1983, the proposed rule comment period closed. Sixty-eight comments were received during the sixty-day comment period. Comments were received from industry, State directors and State staff, trade associations and manufacturers' representatives, district school food service directors and child nutrition directors, agencies of the Federal government and the general public. Of the 68 comments received, 67 were in favor and one was opposed to the proposal in general.

Comments in Favor

In general, commentors favoring the proposal agreed that the CN Labeling Program should be formalized in regulations. Several of these

commentors stated that formalizing the CN Labeling Program would (1) provide a uniform method of recognizing CN labeled products, (2) help ensure that food service authorities receive products as specified, (3) provide a uniform positive means of selecting food products that comply with child nutrition meal pattern requirements; and (4) maintain the integrity of the CN label. Overall, many of the commentors felt that the CN Labeling Program would help to further the goals of the Child Nutrition Programs by helping to ensure the nutritional quality of the meals served in these programs. Additionally, several commentors from industry felt that the proposed rule would provide equitable application and enforcement of the CN Labeling Program which would promote fair competition and good business practices.

Comments in Opposition

The one commentor opposing the proposal was concerned that the CN Labeling Program would create a disproportionately heavy burden on and be excessively costly for small processors who do not have large volume sales.

Discussion

There are a number of issues surrounding the establishment of the CN Labeling Program which are addressed in the February 25, 1983, proposal. Fifty-five of the commentors favoring and the one commentor opposing the proposal presented substantive comments on one or more of these specific issues. The following is a discussion of comments received on pertinent issues addressed in the proposal and the Department's response.

1. Products Eligible for CN Labels

In the proposed rule, the Department proposed to limit the use of the CN label statement to food products that contribute significantly to the meat/meat alternate component of the child nutrition meal patterns and are served in the main dish. Therefore, the Department proposed that juice drinks and juice drink products, which are currently CN labeled, no longer be eligible for CN label approval.

Two commentors favored and fourteen commentors opposed limiting CN labels to meat/meat alternate products. The two commentors in favor of this provision felt that CN labels are needed the most for meat/meat alternate items and that other meal components generally do not raise crediting issues. The fourteen commentors in opposition felt that this provision was too restrictive and that other products which meet the meal pattern requirements would also benefit from CN labels. Some products for which these commentors expressed a need for CN labels included preplated meals, fruit desserts, any products containing juice concentrate, juice drinks, and juice drink products.

Twenty-three commentors specifically addressed CN labeling of juice drinks and juice drink products. Five of these commentors favored and 18 commentors opposed the proposed discontinuance of CN labeling of juice drinks and juice drink products. In general, the five commentors in favor of this provision did not see a need to CN label juice drinks and juice drink products. Three of these five commentors felt that schools should use pure fruit juice and that CN labeling of juice drinks encourages the use of these products in lieu of pure fruit juices.

The 18 commentors opposed to discontinuing CN labeling of juice drinks and juice drink products felt that CN labels were needed on these products in order to ensure that they are credited properly toward the meal pattern requirements. Six of these 18 commentors felt that juice drinks may present as many problems as meat/meat alternates in determining their contribution toward meal pattern requirements. They stated that without CN labels it is difficult to determine the juice content of juice drink products since many of these products contain varying percentages of juice. Similarly, another commentor stated that juice drink products are commonly misconstrued and used as 100 percent juice. Two other commentors expressed concern that many juice drink products are inadequately labeled or mislabeled; thus information provided by salesmen is relied upon and schools may end up using products that are actually less than 50 percent full-strength juice. One commentor also stated that he felt that 50 percent or more juice can make a meaningful contribution toward the meal pattern requirements and that CN labeling of such products would encourage manufacturers to upgrade their formulations.

In view of the comments received, the final rule maintains eligibility for CN labels for juice drinks and juice drink products, as well as for meat/meat alternate products. Under the final rule, the Department will continue to CN label juice drinks and juice drink products that contain a minimum of 50 percent full-strength juice and that are produced under Federal inspection by USDA. This is not intended to encourage the use of juice drinks over full-strength juice, but to provide a means for properly determining the contribution of these products toward meal pattern requirements.

The final rule also retains the requirement that meat/meat alternate items must make a significant contribution toward meal pattern requirements and be served in the main dish to be eligible for a CN label. This will allow for the CN labeling of a wide variety of meat/meat alternate products including preplated meals, provided that all components of such meals are produced under an appropriate Federal inspection program.

2. Establishment of a CN Logo

The Department proposed to require companies to use a CN statement logo or distinctive border as part of the CN label statement approval. The proposed rule also stated the conditions under which the CN logo could be used. It was proposed that the CN label must be reviewed and approved at the national level by FNS. The CN labeled product must then be produced under Federal inspection by USDA or USDC in accordance with an approved quality control program. The proposed rule also specified that the CN label statement be printed as an integral part of the product label along with the product name, the percent ingredient listing, the inspection program marking, the establishment number where appropriate, and the manufacturer's or distributor's name and address. Commentors addressed four specific issues under this provision.

Establishment and Design of the CN Logo. This issue was addressed by 26 commentors. Twenty-three of these commentors favored the use of a CN logo in general. Nine of these commentors felt that a distinctive border such as the CN logo would benefit both manufacturers and food service personnel and would be effective in distinguishing CN labels from other labels that look similar. Four of the 23 commentors favored the use of the CN logo with qualifications. Two commentors stated that the regulation should specify that the CN logo letters be very large and distinct. Another commentor felt that the logo lacked distinction and that an additional emblem would be helpful in identifying products. Similarly, a fourth commentor recommended coloring the logo.

Three commentors opposed the use of the CN logo as specified in the proposed regulations. Two of these three commentors felt that the logo was cumbersome, unnecessary and too costly because it would require new printing plates for each label. The third commentor felt that the logo should be

greatly simplified by reducing the number of letters used in the logo.

The final rule establishes the use of the CN logo with modifications to its design. The Department believes that the CN logo is needed to protect the integrity of the CN Labeling Program, to avoid possible abuse, and to make the CN label statement easy to identify. To make the logo easily useable by all manufacturers, the design is simplified in the final rule by reducing the number of letters used in the border. The size and color of the letters in the logo will be left to the discretion of the manufacturer. It is believed that the CN logo as specified in the final rule will provide the distinction necessary to identify CN labeled products.

Requiring Federal Inspection for all CN Labeled Products. Nine commentors were in favor of requiring Federal inspection for all CN labeled products. One of these commentors felt that the regulations should mandate the use of USDA acceptance service or USDC in-plant inspections for all CN labeled products. This commentor urged that such acceptance or inspection be in place whenever CN labeled products are being run. The other eight commentors recommended that existing FSIS inspectors be cross-trained to perform inspection functions where needed or else considerable costs would be imposed if USDA acceptance service graders had to be utilized. Two of these commentors specifically requested that resident FSIS inspectors in pizza plants be allowed to inspect both meat and cheese pizzas under the CN Labeling Program. Three commentors suggested that FSIS inspectors, including circuit inspectors, be used to review records for CN labeled non-meat items produced under a partial quality control program instead of requiring in-plant (on-line) inspection for these items.

One commentor misinterpreted the intent of this provision. This commentor thought that the proposed rule was implying that an USDA acceptance service grader must be present to assure compliance with CN label formulations in addition to the FSIS inspector.

The final rule retains the requirement that all CN labeled products be produced under an appropriate USDA or USDC Federal inspection or acceptance service program. Under this provision, CN labeled meat and poultry products must be produced under mandatory FSIS inspection in accordance with an approved partial quality control program. The Department is not requiring that these products be produced under USDA acceptance service. Additionally, inspection for CN labeled non-meat products (eggs, cheese, dry beans, peanut butter) may be conducted by an FSIS or USDC inspector available at a plant under a process of cross-utilization. When non-meat products are inspected by FSIS under cross-utilization, the inspection will be performed in accordance with an approved partial quality control program. Inspection of non-meat products by USDC under cross-utilization will be performed in accordance with in-plant inspection guidelines established by USDC. In-plant (on line) inspection for non-meat products by USDA acceptance service will only be needed in FSIS and USDC inspected plants where cross-utilization is not available or in plants not under FSIS or USDC inspection. Additional information on obtaining and using Federal inspection for CN labeled products will be presented in guidance materials prepared by the Department for the CN Labeling Program.

Requiring That a CN Labeled Product be Produced Under an Approved Quality Control Program. This provision was addressed by five commentors. Two of these commentors supported the proposed use of a partial quality control program with periodic inspection by a Federal inspector for monitoring CN labeled products. These two commentors also felt that CN labeled non-meat as well as meat and poultry products should be produced and inspected under an approved partial quality control program. One commentor was opposed to requiring the use of a partial quality control program for all CN label products. This commentor stated that some CN labeled products are currently being produced under USDC in-plant (on line) inspection instead of under a partial quality control program.

Two commentors misinterpreted the intent of the Department in requiring the use of an approved partial quality control program for CN labeled products. One of these commentors thought that the use of a quality control program implied that CN labeled products would have to be produced under in-plant (on line) inspection. The other commentor thought that the quality control program requirement was implying that plants must have a total quality control program in effect, which would be very expensive for small processors.

The final rule retains the requirement that CN labeled products be produced under an approved partial quality control program. This will apply to all CN labeled products except products such as fish and non-meat items, when produced under in-plant (on-line) inspection by USDC inspectors or USDA acceptance service graders. These products will be produced under standards established by the appropriate inspection or acceptance service. For those CN labeled products produced under a partial quality control program, in-plant (on-line) Federal inspection at all times during production will not be required. Additionally, the partial quality control provision applies only to CN labeled products and does not require that an entire plant be operating under a total quality control program. However, a processor operating under a FSIS approved total quality control program may also produce CN labeled products. Additional guidelines for establishing a partial quality control program and standards of inspection for CN labeled products will be presented in guidance material prepared by the Department for the CN Labeling Program.

Requiring Percent Ingredient Listing. Opposition to this provision was expressed by 12 commentors. Seven of these commentors stated that manufacturers should never be required to disclose proprietary formulas. They stated that such information is included in the label transmittal and does not need to be disclosed on the label. Two other commentors felt that FNS lacked the authority to impose such a requirement and that percent ingredient listing should remain voluntary consistent with FSIS policies. Two commentors also stated that such a requirement was unprecedented and unnecessary since all ingredients are listed in order of predominance on the product's label.

The final rule does not require percent ingredient listing on CN labeled products. However, manufacturers are encouraged to use percent ingredient listing when possible. Several products may have ingredients listed in the same order of predominance on their labels, but be composed of different percentages of each ingredient. Therefore, the Department feels that percentage labeling may provide food service personnel with additional information to determine if a product meets their specifications.

3. Establishment of a Warranty Against Audit Claims

The Department proposed that a school or institution which purchases a CN labeled product in good faith and uses it according to the manufacturer's directions will not have audit claims

placed against it for that portion of the meal supplied by the CN labeled product. The proposed rule stated that under this warranty, yields for determining the product's contribution as stated on the CN label would be calculated using the *Food Buying Guide for child Nutrition Programs* (Program Aid Number 1331). The proposed rule also specified courses of action that would be taken against a processor if a State or Federal auditor finds that a CN labeled product does not actually meet the meal pattern requirements claimed on the label. Three specific issues were addressed under this provision.

Establishing Warranty. Twenty-two commentors favored and one commentor was opposed to establishing a warranty against audit claims for CN labeled products. In general, the commentors in favor of this provision felt that the warranty would be valuable to food service personnel in making product selection and ensuring them that a product will meet meal pattern requirements. Five commentors also stated that the warranty would strengthen confidence in the CN Labeling Program. Two other commentors supporting the warranty felt that it was only justified in situations where stringent in-plant (on line) inspection can be provided. The one commentor opposing the warranty felt that if a manufacturer has multiple compliance checks made, why not hold the manufacturer blameless for what end users do to the product.

As proposed, the final rule establishes a warranty against audit claims for that portion of the meal supplied by the CN labeled product. The warranty will apply to all CN labeled products and will not require that they be produced under in-plant (on line) inspection. The Department feels that periodic inspection under an approved partial quality control program will provide reasonable assurance that a product complies with the CN label statement. This warranty is intended to benefit both schools and industry participating in the CN Labeling Program by limiting misuse of the CN Labeling Program and by providing an added benefit to schools. It is the Department's intention to maintain a manufacturer's current responsibility for compliance under this warranty. A thorough review of how the CN labeled product was used, etc. would be conducted before any action would be taken against a manufacturer for non-compliance.

Courses of Action. Four commentors favored the proposed courses of action that would be taken against a processor if a State or Federal auditor finds that a CN labeled product does not actually meet the meal pattern requirements claimed on the label. Three of these commentors, however, felt that the proposed courses of action were not severe enough and recommended that a monetary penalty also be levied against a company.

Opposition to the proposed courses of action was expressed by one commentor. This commentor felt that there are sufficient safeguards during production of CN labeled products to ensure compliance. Therefore, if a company has a CN labeled product then legal action should not be made against that company after the sale of the product.

The proposed courses of action to be taken against a company when a product does not meet the meal pattern requirements as stated on the CN label will be retained in the final rule. Within these courses of action a monetary penalty may be levied against a company if deemed appropriate by the agency pursuing the mislabeling or misbranding action.

Food Buying Guide Yields. Three commentors expressed opposition to using yields from the *Food Buying Guide for Child Nutrition Programs* (Program Aid Number 1331) for calculating a CN labeled product's contribution toward meal pattern requirements. Two of these commentors felt that processors should be able to establish their own cooking yields. The third commentor was concerned that many poultry products are not listed in the *Food Buying Guide* and suggested that the publication be thoroughly overhauled to make it equitable for all types of meat manufacturers.

The final rule retains the use of yields from the *Food Buying Guide for Child Nutrition Programs* for calculating a CN labeled product's contribution toward meal pattern requirements. This method is consistent with the Department's policy for determining the contribution toward meal pattern requirements of meat/meat alternate products. Additionally, it is believed that using yields from the *Food Buying Guide* will help ensure that various meat/meat alternate items, regardless of the cooking methods used or the addition of other ingredients, will be nutritionally equivalent. The Department does, however, continue to review and study yield data for meat/meat alternates and other food items served in the Child Nutrition Programs and, when warranted, additions and changes in the *Food Buying Guide* will be considered.

4. Authorization for FNS to Issue Operational Policies

The proposed rule authorized FNS to issue operational policies, procedures, and instructions for the CN Labeling Program through guidance material.

This provision was favored by three commentors. All of these commentors agreed that published guidelines were definitely needed. One commentor specifically requested that crediting procedures for meat items be included in the manual to save the manufacturer time and expense in applying for CN labels. Another commentor recommended that input from industry be received prior to implementation of the policy manual.

The final rule establishes authority for FNS to issue operational policies, procedures and instructions for the CN Labeling Program through guidance material. Among the information to be included in this guidance is sample calculations and procedures for determining a meat/meat alternate product's contribution toward meal pattern requirements. In developing this guidance material, the Department has also taken into consideration comments received from industry and the needs they have expressed.

5. CN Label Statement

The proposed rule defined the parts of the CN label statement. The Department proposed that in addition to the CN logo, the CN label statement include: (1) The product identification number, (2) the statement of the product's contribution toward meal pattern requirements, including a meat/meat alternate product's contribution, if any, toward the bread/bread alternate and vegetable/fruit component, (3) statement of authorization, and (4) the approval date.

Product Identification Number. This issue was addressed by five commentors. Four of these commentors favored the use of a product identification number. They felt that this number was greatly needed for product control and identification of various end products. One of the four commentors, however, felt that FNS should assign numbers via phone conversation. Another commentor also felt that the identification number should remain the same if the label undergoes minor revisions. The one commentor opposed to the use of the identification number felt that it would slow down the label review process.

The final rule retains the use of the identification number as part of the CN label statement in order to maintain product control. When possible, the Department will allow this identification

number to be assigned via a phone conversation to avoid any delay in the label review process. Additionally, the Department will retain the same identification number of labels undergoing minor revisions that do not require submittal of a new label application. Additional information on assigning and using the identification number will be presented in guidance material prepared by the Department for the CN Labeling Program.

Statement of Product's Contribution. This issue was addressed by five commentors. All of these commentors favored allowing a meat/meat alternate product's contribution toward the bread/bread alternate and vegatable/fruit component to be stated on the CN label. Comments were also received suggesting that the meat/meat alternate contribution be expressed in .25 ounce increments.

The final rule allows the CN label statement to state a meat/meat alternate product's contribution toward the bread/bread alternate and vegetable/fruit component as well as the meat/meat alternate component. The Department will also allow the meat/meat alternate contribution to be expressed in .25 ounce increments. This latter provision will be established through policy presented in guidance material prepared by the Department for the CN Labeling Program.

Statement of Authorization. Nine commentors were opposed to requiring the statement of authorization in the CN label statement as specified in the proposed rule. As proposed, the statement of authorization reads as follows: "Use of this logo and statement was authorized by the Food and Nutrition Service, United States Department of Agriculture 05–84." All of the commentors opposed to requiring this statement felt that it was too lengthy and would require manufacturers to increase the size of their labels; thus causing them to incur additional costs in packaging.

The statement of authorization required in the CN label statement has been revised in the final rule. The statement has been shortened to read as follows: "Use of this logo and statement authorized by the Food and Nutrition Service, USDA 05–84."

Approval Date. One commentor favored and three commentors opposed requiring that the CN label statement include the approval date. The one commentor in favor of this provision felt that if minor changes are made in a label the approval date should remain the same as on the original label. Those commentors opposing the use of the approval date felt that it was not necessary and stated that such a date is not required under FSIS label approval.

The final rule will retain the use of the label approval date in the CN label statement. The Department feels that this date will facilitate tracing CN labels that may be out dated due to changes in policies, etc. The circumstances under which the approval date will need to be revised will be discussed in guidance material prepared by the Department for the CN Labeling Program.

Other Comments

A few commentors expressed concern about requiring manufacturers who currently have approved CN labels to resubmit within one year. These commentors recommended that manufacturers be given additional time to use existing label inventories if necessary. In view of these commitments, the Department has extended the implementation period for this rule to 18 months from its effective date. It is felt that 18 months will provide manufacturers with sufficient time to use up existing label inventories.

In response to all comments received on the proposed rule, revisions have been made in the final rule as referenced under specific issues. Additionally, minor revisions have been made to provide clarification. However, most of the general provisions of the proposed rule have not been changed. The Department will provide additional clarification of all provisions set forth in the final rule through guidance material.

List of Subjects

7 CFR Part 210

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 225

Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

PARTS 210, 220, 225, 226—[AMENDED]

Accordingly, a new Appendix C, Child Nutrition (CN) Labeling Program, is added to 7 CFR Parts 210, 220, 225, and 226. For Parts 225 and 226 we are reserving Appendix B. Appendix C reads as follows:

Appendix C—Child Nutrition (CN) Labeling Program

1. The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service (FNS) in conjunction with the Food Safety and Inspection Service (FSIS), and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA), and National Marine Fisheries Service of the U.S. Department of Commerce (USDC) for the Child Nutrition Programs. This program essentially involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward meal pattern requirements and a review of the CN label statement to ensure its accuracy. CN labeled products must be produced in accordance with all requirements set forth in this rule.

2. Products eligible for CN labels are as follows:

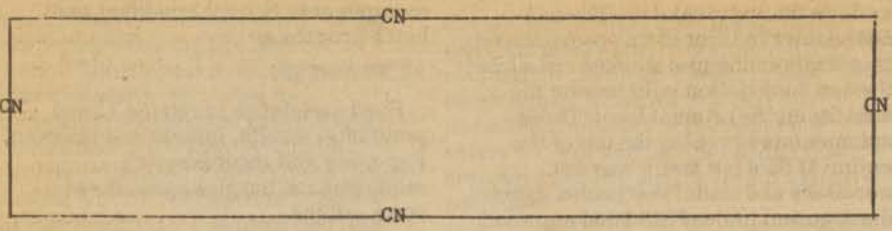
(a) Commercially prepared food products that contribute significantly to the meat/meat alternate component of meal pattern requirements of 7 CFR 210.10, 225.21, and 226.20 and are served in the main dish.

(b) Juice drinks and juice drink products that contain a minimum of 50 percent full-strength juice by volume.

3. For the purpose of this appendix the following definitions apply:

(a) "CN label" is a food product label that contains a CN label statement and CN logo as defined in paragraph 3 (b) and (c) below.

(b) the "CN logo" (as shown below) is a distinct border which is used around the edges of a "CN label statement" as defined in paragraph 3(c).



(c) The "CN label statement" includes the following:

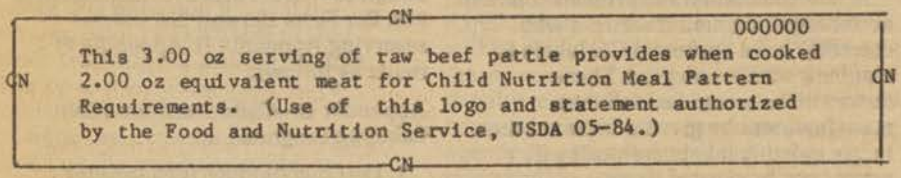
(1) The product identification number (assigned by FNS),

(2) The statement of the product's contribution toward meal pattern requirements of 7 CFR 210.10, 220.8, 225.21, and 226.20. The statement shall identify the contribution of a specific portion of a meat/meat alternate product toward the meat/meat alternate, bread/bread alternate, and/or vegetable/fruit component of the meal pattern requirements. For juice drinks and juice drink products the statement shall identify their contribution toward the vegetable/fruit component of the meal pattern requirements,

(3) Statement specifying that the use of the CN logo and CN statement was authorized by FNS, and

(4) The approval date.

For example:



(d) "Federal inspection" means inspection of food products by FSIS, AMS or USDC.

4. Food processors or manufacturers may use the CN label statement and CN logo as defined in paragraph 3 (b) and (c) under the following terms and conditions:

(a) The CN label must be reviewed and approved at the national level by the Food and Nutrition Service and appropriate USDA or USDC Federal agency responsible for the inspection of the product. (OMB Approval No. 0584-0320).

(b) The CN labeled product must be produced under Federal inspection by USDA or USDC. The Federal inspection must be performed in accordance with an approved partial or total quality control program or standards established by the appropriate Federal inspection service.

(c) The CN label statement must be printed as an integral part of the product label along with the product name, ingredient listing, the inspection shield or mark for the appropriate inspection program, the establishment number where appropriate, and the manufacturer's or distributor's name and address.

(1) The inspection marking for CN labeled non-meat, non-poultry, and non-seafood products with the exception of juice drinks and juice drink products is established as follows:

INSPECTED BY THE U.S. DEPT. OF AGRICULTURE IN ACCORDANCE WITH FNS REQUIREMENTS

(d) Yields for determining the product's contribution toward meal pattern requirements must be calculated using the *Food Buying Guide for Child Nutrition Programs* (Program Aid Number 1331).

5. In the event a company uses the CN logo and CN label statement inappropriately, the company will be directed to discontinue the use of the logo and statement and the matter will be referred to the appropriate agency for action to be taken against the company.

6. Products that bear a CN label statement as set forth in paragraph 3(c) carry a warranty. This means that if a food service authority participating in the child nutrition programs purchases a CN labeled product and uses it in accordance with the manufacturer's directions, the school or institution will not have an audit claim filed against it for the CN labeled product for noncompliance with the meal pattern requirements of 7 CFR 210.10, 220.8, 225.21, and 226.20. If a State or Federal auditor finds that a product that is CN labeled does not actually meet the meal pattern requirements claimed on the label, the auditor will report this finding to FNS. FNS will prepare a report of the findings and send it to the appropriate divisions of FSIS and AMS of the USDA, National Marine Fisheries Services of the USDC, Food and Drug Administration, or the Department of Justice for action against the company.

Any or all of the following courses of action may be taken:

(a) The company's CN label may be revoked for a specific period of time;

(b) The appropriate agency may pursue a misbranding or mislabeling action against the company producing the product;

(c) The company's name will be circulated to regional FNS offices;

(d) FNS will require the food service program involved to notify the State agency of the labeling violation.

7. FNS is authorized to issue operational policies, procedures, and instructions for the CN Labeling Program.

To apply for a CN label and to obtain additional information on CN label application procedures write to: CN Labels, U.S. Department of Agriculture, Food and Nutrition Service, Nutrition and Technical Services Division, 3101 Park Center Drive, Alexandria, Viriginia 22302.

(National School Lunch Act Sections 9, 13, 17, 72; U.S.C. 1758, 1761, 1766; 7 CFR 210.10, 220.8, 225.21, 226.20)

Dated: April 18, 1984.

Robert D. Leard,

Administrator.

[FR Doc. 84-11052 Filed 4-30-84; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 272 and 273

[Amendment No. 261]

Food Stamp Program; Alaska Thrifty Food Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: The Agriculture and Food Act of 1981 (Pub. L. 97-98), enacted on December 22, 1981, provides for differing allotment levels for rural and urban Alaska to recognize significantly higher food costs in rural Alaska. This action concerns this statutory change. It will result in allotments for Alaska that are more representative of food costs in *all* areas of the State, and it will raise the ceiling on allotments for Guam and the Virgin Islands.

This action also concerns (1) a provision in the Agriculture and Food Act of 1981 which places into the statute what is now a regulatory provision permitting the use of "fee agents" in administering the Food Stamp Program in rural Alaska, and (2) a change in the method of calculating annual Thrifty Food Plan (TFP) updates in Guam and the Virgin Islands.

DATE: This action is effective May 1, 1984. Comments must be received on or before July 2, 1984 to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: If there are any questions, please contact Thomas O'Connor at the above address, or by telephone at (703) 756–3425.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1. This action would have a minimal effect on program costs at current levels of participation; it essentially redistributes current food stamp dollars spent in the State. It is not know whether an increase in the food stamp allotment in rural areas would encourage some persons who are not now in the program to begin to participate. To the extent that it does, program costs in Alaska would increase. However, relatively few people live in rural parts of Alaska, so even if this action brought about an increase in participation there, the national impact would be small. This is classified as a "non-major" action because it will not have an annual effect on the economy of more than $100 million. The action will not result in major increases in costs or prices and will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, this action is unrelated to the ability of United States based enterprises to compete with foreign-based enterprises. Adoption of this action would result in an Alaska allotment more representative of food costs in all areas of the State.

Justification for Publishing as an Interim Rule Effective Upon Publication

This action is being published as an interim rule, effective upon publication. Section 1303 of Pub. L. 97–98, dealing with Alaska's Thrifty Food Plan, was among provisions which, under section 1338 of that law, were originally scheduled to become effective on dates prescribed by the Secretary, taking into account the need for orderly implementation (Pub. L. 97–98, Title XIII, sec 1338, 95 Stat. 1285, December 22, 1981). However, Congress reconsidered the effective date provision of Pub. L. 97–98 in conjunction with passage of the Food Stamp Act Amendments of 1982 and mandated that, notwithstanding section 1338, all of the food stamp provisions of Pub. L. 97–98 not already effective would be effective upon enactment of the 1982 legislation (Pub. L. 97–253, Subtitle F, Sec. 192(b), Sept. 8, 1982). The 1982 provisions were signed into law September 8, 1982.

For this reason, Robert E. Leard, Administrator, Food and Nutrition Service, has determined, pursuant to 5 U.S.C. 533, that prior public comment on this rulemaking is impracticable and contrary to public interest and that good cause exists for making the rule effective on publication. Public comment is solicited on this rule for 60 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Regulatory Flexibility Act

The action also has been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. These provisions primarily represent changes in certification, issuance, and computer programming for Alaska, so the Alaska State and local welfare agencies would be affected. Those most affected would be current participants in the program. There would be no significant immediate impact on Guam or the Virgin Islands.

Paperwork Reduction Act

This regulation does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

Background

Thrifty Food Plan—Alaska

During most of the 1970's there was a separate food stamp allotment level for Alaska because it had food prices significantly different from those in the 48 States and D.C. Allotments for Alaska were based on the cost of the Thrifty Food Plan (TFP) in Alaska. This was at first an administrative policy, but it was incorporated into law by the Food Stamp Act of 1977 (Pub. L. 95–113, 91 Stat. 958, approved September 29, 1977). Although the separate TFP for Alaska averaged about one-third higher than the TFP for the 48 States, it was not high enough to meet the TFP needs of all persons in the State. Some rural areas of Alaska had food prices twice as high as the food stamp allotments because the allotment was based upon Anchorage prices only—the only area in the State where the Bureau of Labor Statistics routinely collected food price information. So an informal compromise was arrived at, and a procedure was developed to take into account food prices in more areas of the State. This procedure estimated an average TFP cost for all areas of the State by weighting the relative costs of food in twelve Alaska communities by the food stamp caseload in those communities. The procedure took into account food costs of almost 85 percent of the food stamp population in the State and the average TFP obtained resulted in a 9.3 percent increase in Alaska allotments. The adjusted allotments were first published on November 9, 1979, at 44 FR 64067.

This 9.3 percent increase made the Alaska allotment more representative, on the average, of overall Alaska food costs, bt it was still not high enough for every area. The allotment was still substantially less than would be required to purchase the components of the TFP "market basket" in the remote ares of the State where food costs are extremely high. At the same time, the 9.3 percent adjustment resulted in providing urban areas of the State with more than they needed to purchase the TFP "market basket." However, this was the best accommodation that could be made. Under the Food Stamp Act of 1977 (Pub. L. 95–113, 91 Stat. 958), the Department had authority only to have one allotment level for the State.

That changed with passage of the Agricultural and Food Act of 1981 (Pub. L. 97–98). This statute amended the Food Stamp Act of 1977 to give the Department the legislative authority to develop separate allotments for urban and rural areas of Alaska. This action concerns a procedure to implement that statute.

Rural/Urban Definition

The language of the 1981 Act specifies a rural/urban distinction to reflect the cost of food. The legislative history cites the purpose of the language as providing a cost differential for areas of the State where food prices are significantly higher than in Anchorage. The Department, therefore, had to assure that higher allotments be restricted to areas where there is a significant food price differential and that such areas be

rural in character. In addition, to ease administration and prevent errors in determining whether residents are entitled to the higher rural allotment or not, a discrete geographic boundary is necessary in defining areas as urban or rural. In making this determination, the Department explicitly ruled out an urban-rural designation based solely upon the criteria used for fee agent coverage and eligibility for subsistence hunting and fishing. These criteria would result in more sporadic coverage of the rural allotments and would not necessarily address the specific concern of this rule—increased allotments in areas with higher food prices.

The State had recommended that the Department use family living cost data applied to each of the 23 county equivalents in the State of Alaska. These data were contained in a publication entitled, *Numbers: Basic Economic Statistics of Alaska Census Divisions*, which was prepared by the Alaska Department of Commerce and Economic Development, Division of Economic Enterprise. Each area would be designated as either rural or urban based upon whether its family living costs were comparatively high or low. A major advantage of the State-recommended data base was that its use of county equivalents resulted in coverage of all areas of the State. However, the major disadvantage of this was its use of overall family *living* costs rather than family *food* costs specifically. Using family food costs data would be more consistent with the legislative history and the purposes of the Food Stamp Program—to ensure increased consumption of food.

Therefore, the Department attempted to determine the food numbers which were embedded in the total family living costs data. The *Numbers* publication had indicated that the indexes were obtained from the publication entitled *Alaskan Interregional Cost Differentials*, published by the Center for Northern Educational Research, University of Alaska. This publication contained only one set of food index numbers which could reasonably have been used to develop the family living costs data. Using these data, the Department was able to construct a food index for all but three Census Divisions, covering all but 4 percent of the population in the State. The three areas for which a food index could not be constructed were assigned their urban or rural designation based upon family living costs data.

Areas of the State which have food costs less than 130 percent of Anchorage costs are designated as urban areas for purposes of this rule. These areas are: Fairbanks-North Star Borough, Southeast Fairbanks Census Area, Matanuska-Susitna Borough, Anchorage Borough, Kenai Peninsula Borough, Kodiak Island Borough, Valdez-Cordova Census Area, Skagway-Yakutat-Angoon Census Area, Haines Borough, Juneau Borough, Sitka Borough, Wrangell-Petersburg Census Area, Prince of Wales-Outer Ketchikan Census Area, Aleutian Islands Census Area, and Ketchikan Gateway Borough. The remaining areas of the State are designated rural areas for allotment purposes. The rural areas all had food costs 130 percent or more of Anchorage costs.

Methodology for Urban/Rural Allotments

The Department used the same mathematical procedure to develop allotment levels for urban and rural areas of Alaska as was used to calculate the 9.3 percent adjustment. That is, an index number depicting costs was weighted by food stamp participation in each area, average differences for urban and rural areas were derived, and these differences were separately applied to Anchorage TFP costs. The results were reduced by one percent and rounded down as required by law. Household size and economies of scale adjustments were also made. Since December 1980 participation statistics were available and more recent than the statistics used to obtain the 9.3 percent increase, these were used to determine the relative distribution of the caseload in each county equivalent area. The Department does not plan to make adjustments in the composite indexes to use another month's participation statistics. However, should the relative differences change substantially, then the Department would consider making adjustments.

Anchorage TFP costs were $345.70 for a family of four in June 1983. The current food stamp allotment of $374 reflects the 9.3 percent adjustment and legislated rounding and reductions. Costs in urban areas of the State were 6.4 percent higher than Anchorage costs, which are reflected in an allotment for urban areas of $364 for a family of four. Rural costs were 50.7 percent higher than Anchorage costs, which are reflected in a rural allotment of $515. The new allotment in urban areas is higher than Anchorage TFP costs, but it is lower than the current allotment. The new allotment for rural areas is substantially higher than the current allotment. The magnitude and direction of these differences are appropriate in view of the formula which was used to develop the current and the new allotments.

The current TFP amounts for Alaska and the revisions are as follows:

THRIFTY FOOD PLAN AMOUNTS FOR ALASKA

[Oct. 1, 1983–Sept. 30, 1984]

Household size	Current statewide allotments	Anchorage Thrifty Food plan rounded and reduced by 1 pct	Urban allotments	Rural allotments
1	$112	$102	$109	$154
2	205	188	200	283
3	294	269	286	406
4	374	342	364	515
5	444	406	432	612
6	533	487	518	734
7	589	539	573	812
8	673	616	655	928
Each additional member	+84	+77	+82	+116

Thrifty Food Plan Ceiling—Guam and the Virgin Islands

Pub. L. 91–671, 84 Stat. 2048–2052, enacted January 11, 1971, provided, in part, that the separate coupon allotment schedules in Guam and the Virgin Islands could not exceed the coupon allotment schedules in the fifty States. The Food Stamp Act of 1977 incorporated similar language, but specified use of the Thrifty Food Plan with appropriate cost adjustments. The Department last adjusted the TFP amounts for the fifty States and the District of Columbia, Guam and the Virgin Islands in October 1983, based upon June 1983 prices. When the Alaska urban-rural TFP rules are implemented, the TFP amount used to cap Guam and the Virgin Islands' allotments will be allowed to increase. The Department will use the rural Alaska TFP amounts as the new cap to determine the TFP for Guam and the Virgin Islands.

Fee Agents

An amendment to the Agriculture and Food Act of 1981 has placed into the statute what is now a regulatory provision allowing the use of so-called "fee agents" in administering the food stamp program in rural Alaska. The Department is not making any change to the regulations pertaining to fee agents since fee agent provisions are included in current Food Stamp Program regulations. The definitions of "rural" Alaska for "fee agent" purposes will be unaffected by the urban-rural allotments.

Thrifty Food Plan Adjustment—Guam and the Virgin Islands

From the time the Food Stamp Program began to operate in Guam and

the Virgin Islands, the Bureau of Labor Statistics (BLS) has provided FNS with quarterly food price data to update values of the TFP in these areas. A statistical analysis of the TFP cost changes from September 1978 through June 1983 showed a close correlation between price changes in Guam and the Virgin Islands and the 48 States and D.C. The correlation coefficients of .989 in Guam and .973 in the Virgin Islands indicated that values of TFP changes in the 48 States and D.C. can be used to reliably estimate price changes in Guam and the Virgin Islands. This alternative method will also eliminate the need and expense of conducting separate surveys in these areas. Accordingly, the Department requested BLS to eliminate separate data collection for Guam and the Virgin Islands. Changes in the value of the TFP for the 48 States and D.C. will be used to update Guam and the Virgin Islands TFP values. The Department will, as a safeguard, periodically reassess values of the TFP in these areas.

Implementation

Section 1303 of Pub. L. 97–98, dealing with Alaska's Thrifty Food Plan, was among provisions which, under section 1338 of that law, were originally scheduled to become effective on dates prescribed by the Secretary, taking into account the need for orderly implementation (Pub. L. 97–98, Title XIII, sec. 1338, 95 Stat. 1285, December 22, 1981). However, Congress reconsidered the effective date provision of Pub. L. 97–98 in conjunction with passage of the Food Stamp Act Amendments of 1982 and mandated that, notwithstanding section 1338, all of the food stamp provisions of Pub. L. 97–98 not already effective would be effective upon enactment of the 1982 legislation (Pub. L. 97–253, Subtitle F, Sec 192(b) September 8, 1982). The 1982 provisions were signed into law September 8, 1982. Since that time has now passed, it is important that this rule be implemented at the earliest possible date. However, the Department recognizes that the Alaska State agency must reprogram computers and communicate new allotment amounts to certification and issuance personnel. Therefore, in order to allow sufficient time for implementation, the Department is requiring that the Alaska State agency be required to provide the new allotment levels not later than August 1, 1984. The Department has been advised by the Alaska State agency that they need until August 1, 1984, to convert their caseload to the new allotment levels. The Alaska State agency advised us that they are presently in the process of establishing a Statewide computer eligibility determination system for all public assistance programs including the Food Stamp Program. Their staff and their computer system is already overworked handling normal Program operations and doing the total computer conversion. Based on this information the Department is not requiring the Alaska State agency to implement any sooner than for the August allotments. However, if circumstances were to change, the State agency has the authority under this rule to implement sooner than August, 1984. Until February 1, 1985, households in rural Alaska may request enhanced benefits (otherwise known as retroactive benefits) for the period after September 8, 1982, during which they lived in rural Alaska and participated in the Food Stamp Program in that area. Because of the potentially large amounts involved, and to minimize economic disruption, the Department is requiring that these enhanced benefits be provided in amounts equal to the higher of $50 a month or one-twelfth of the total amount each month.

Pub. L. 97–253, Section 192(b) also made the new TFP cap for Guam and the Virgin Islands effective as of September 8, 1982. During the period October 1, 1982, to September 30, 1983, Guam's calculation for the TFP was one dollar higher for certain household sizes than the capped Guam TFP. When the Alaska urban-rural TFP rules are implemented, the TFP amount used to cap Guam's allotment during this period will increase retroactively. Therefore, until February 1, 1985, certain households in Guam may request enhanced benefits for the period October 1, 1982 to September 30, 1983 during which they lived in Guam and participated in the Food Stamp Program in that area. These are household sizes two, five, and eight or more. Because Guam enhanced benefits will be relatively small, these may be provided in one month.

Enhanced Benefit Amounts

The following tables show the amount of enhanced benefits which households in Alaska and Guam will be entitled to receive for each month they participated in the Food Stamp Program in Guam or in rural parts of Alaska since September 8, 1982. Except for one- and two-person households, enhanced benefits shown in the tables are fixed amounts for each month, or partial month, of program participation. Some households will, therefore, receive slightly more than they would otherwise have been entitled to, but administrative complexity will, thereby, be greatly decreased. For example, in October 1982, four-person households in Alaska received a maximum coupon allotment of $365, based upon the 9.3 percent increase over Anchorage. The maximum coupon allotment for all four-person households participating in rural areas should have been $503, $138 more than they did receive. In October 1983, four-person households received a maximum allotment of $374, but those in rural areas should have received $515, or $141 more. The Department has determined that the higher amount, $141, which was based upon the most recent allotment period, be provided to four-person households in rural Alaska. The cost to the Federal Government of providing a fixed monthly amount for households sizes three or more is relatively small because the differences are small from one allotment period to another. The difference for four-person households sizes is about $35 a year.

One and two-person households will be treated differently because of the higher cost to the Federal Government of providing a fixed amount. The Food Stamp Act of 1977 (Pub. L. 95–113, 91 Stat. 950, September 29, 1977) provided that one- and two-person households shall receive a minimum food stamp benefit of $10. Therefore, some one- and two-person households receive higher benefits than they would receive if their benefit calculation completely followed the formula used for the benefit calculation for other household sizes:

Food stamp benefit = Maximum allotment − 30 percent of net income

For example, a one-person household with the maximum net income, $507, received the $10 minimum benefit in October 1983. Under this rule, that household would still be entitled to $10, so they would not receive an enhanced benefit. A lower income one person household could, however, be entitled to enhanced benefits. For example, the one person household with $340 income should have received $52 but only received $10. This household would be entitled to receive $42 in enhanced benefits. The amounts of enhanced benefits for one and two-person households will vary according to their income. Therefore, these amounts must be calculated individually. To facilitate the calculation of monthly enhanced benefit amounts for one and two-person households, the Department will provide the affected State agencies with separate tables.

The following tables show the monthly amount of enhanced benefits for households in rural Alaska and in Guam.

MONTHLY ENHANCED BENEFITS FOR HOUSEHOLDS IN RURAL ALASKA

[Sept. 1982–implementation month]

Household size	Monthly enhanced benefit amount
1	$0–42
2	0–78
3	112
4	141
5	168
6	201
7	223
8	255
+ Each additional	+32

MONTHLY ENHANCED BENEFITS FOR HOUSEHOLDS IN GUAM

[Oct. 1982–Sept. 1983]

Household size	Monthly enhanced benefit amount
1	$0
2	0–1
3	0
4	0
5	1
6	0
7	0
8	1
+ Each additional	+1

Mass Change Notices

Households in urban Alaska will have their allotments reduced as a result of this action. Section 273.12(e)(1) provides that when Thrifty Food Plan amounts are being changed, a Notice of Adverse Action is not required. However, the Department is strongly encouraging the State of Alaska to send an individual notice to households of these changes. Normally, changes in Thrifty Food Plan amounts result in increases in the allotments households receive. Since these changes will result in decreases for households in urban areas, many households may be concerned and request fair hearings. Notices will avoid unnecessary hearings which could not possibly result in benefit increases. Thus, the State agency should provide mass change notices to all households in urban areas. We recommend that the notice also explain that the amount of the benefit reduction for each household size in urban areas will be no more than the following amounts: household size 1—$3, household size 2—$5, household size 3—$8, household size 4—$10, household size 5—$12, household size 6—$15, household size 7—$16, household size 8—$18, each additional person in households larger than 8—$2. Households whose benefits were reduced more than these amounts and whose other circumstances did not change, should be advised to contact their caseworkers. Considering urban areas separately from rural areas results in a lower urban allotment. However, many urban households will continue to receive more than their Thrifty Food Plan needs even under the new lower urban allotment schedule. Finally, the Department is not requiring urban households to pay back the additional amounts they received due to delayed implementation of this procedure.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food and Nutrition Service, Food stamps, Grant programs-social programs, Records, Reporting requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food and Nutrition Service, Food stamps, Fraud, Grant programs-social programs, Penalties, Records, Reporting requirements, Social security, Students.

Accordingly, parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1(g), a new paragraph (69) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(69) Amendment No. 261. State agencies shall implement this amendment establishing the Alaska urban and rural allotment levels and the new cap for Guam no later than August 1, 1984. Households in rural Alaska which request retroactive benefits by February 1, 1985 will be entitled to retroactive benefits for the period after September 8, 1982, during which they lived in rural Alaska and participated in the Food Stamp Program in that area. These retroacive benefits will be provided over a period of time not to exceed one year. The amount provided each month will be the higher of $50 or one-twelfth of the total amount due. Households in Guam which request retroactive benefits by February 1, 1985 will be entitled to retroactive benefits for the period October 1, 1982, through September 30, 1983, during which they lived in Guam, participated in the Food Stamp Program in that area, and were in household sizes two, five, or eight or more.

2. In § 272.7, paragraph (c) is amended to add the following two definitions in alphabetical order:

§ 272.7 Procedures for program administration in Alaska.

(c) *Definitions.* * * *

"Rural Alaska TFP" refers to a Thrifty Food Plan (TFP) that is 50.7 percent higher than the Anchorage TFP, as calculated by FNS, with rounding and other reductions that are appropriate. It is to be used in the following areas: North Slope Borough, Kobuk Census Area, Nome Census Area, Yukon-Koyukuk Census Area, Wade Hampton Census Area, Bethel Census Area, Bristol Bay Borough, and Dillingham Census Area.

"Urban Alaska TFP" refers to a Thrifty Plan (TFP) that is 6.4 percent higher than the Anchorage TFP as calculated by FNS, with rounding and other reductions that are appropriate. It is to be used in the following areas: Fairbanks-North Star Borough, Southeast Fairbanks Census Area, Matanuska-Susitna Borough, Anchorage Borough, Kenai Peninsula Borough, Kodiak Island Borough, Valdez-Cordova Census Area, Skagway-Yakutat-Angoon Census Area, Haines Borough, Juneau Borough, Sitka Borough, Wrangell-Petersburg Census Area, Prince of Wales-Outer Ketchikan Census Area, Aleutian Island Census Area, and Ketchikan Gateway Borough.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.10 paragraph (e)(4)(i) is revised to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) *Calculating net incomes and benefit levels.* * * *

(4) *Thrifty Food Plan*—(i) *Level of the Thrifty Food Plan.* The Thrifty Food Plan shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The Thrifty Food Plan for Hawaii shall be the Thrifty Food Plan for the 48 States and D.C., adjusted for the price of food in Honolulu. The plans for urban and rural parts of Alaska shall be the Thrifty Food Plan for the 48 States and D.C. adjusted by the price of food in Anchorage and further adjusted for urban and rural Alaska as defined in § 272.7(c). The Thrifty Food Plans for Guam and the Virgin Islands shall be adjusted for changes in cost of food in the 48 States and D.C., provided that the costs of these plans may not exceed the cost of the highest Thrifty Food Plan for the 50 States. The Thrifty Food Plan amounts in each area are adjusted annually and

will be prescribed in General Notice published in the **Federal Register**.

* * * * *

Authority: 91 Stat. 958, (7 U.S.C. 2011–2029)

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: April 26, 1984.

John W. Bode,

Deputy Assistant Secretary, Food and Consumer Services.

[FR Doc. 84–11731 Filed 4–30–84; 8:45 am]

BILLING CODE 3410–30–M

Animal and Plant Health Inspection Service

[Docket No. 83–340]

7 CFR Part 301

Corn Cyst Nematode

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations by adding a new subpart, captioned "Corn Cyst Nematode", to the domestic quarantine notices. This subpart quarantines the State of Maryland for corn cyst nematode *Heterodera zeae*, designates certain areas in Maryland as regulated areas, designates certain articles as regulated articles and establishes conditions governing the interstate movement of regulated articles from regulated areas. This amendment is necessary to prevent the artificial spread interstate of corn cyst nematode, a dangerous plant pest.

DATES: Effective date of this amendment May 1, 1984. Written comments concerning this interim rule must be received on or before July 2, 1984.

FOR FURTHER INFORMATION CONTACT: Elliott Crooks, Senior Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8249.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. This action is necessary to prevent the artificial spread interstate of corn cyst nematode (*Heterodera zeae*).

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

Corn cyst nematode *Heterodera zeae*, is a cyst-forming nematode that attacks the roots of host plants such as corn, barley, oats and sorghum. The nematode bores into the roots of the plants and feeds on the juices resulting in poor root development and poor plant growth. If allowed to become established in the United States it could cause severe crop losses. The corn cyst nematode is spread artificially through the movement of infested soil and equipment carrying infested soil.

Corn cyst nematode has been recently discovered in several counties in the State of Maryland. This is the first known find of corn cyst nematode in the Western Hemisphere. It has been previously reported only in the countries of India, Pakistan and Egypt.

This document amends the regulations in Part 301 ("Domestic Quarantine Notices") of Title 7 of the Code of Federal Regulations (7 CFR Part 301) by adding a new Subpart 301.90, captioned "Corn Cyst Nematode." This subpart (1) quarantines the State of Maryland for corn cyst nematode; (2) designates certain areas in Maryland as "regulated areas"; (3) designates certain articles as "regulated articles"; and (4) establishes regulations governing the interstate movement of regulated articles from regulated areas.

Quarantine and Regulations

Infestations of corn cyst nematode were initially found in areas of Kent County, Maryland. Subsequent soil surveys detected the nematode in the counties of Cecil, Harford and Queen Annes. These areas remain infested at this time. Therefore, this document, in Subpart 301.90, quarantines the State of Maryland for corn cyst nematode and establishes regulations prohibiting any common carrier or other person from moving interstate from any regulated area any regulated article except in accordance with conditions prescribed in § 301.90–4. Two footnotes are added for informational purposes. Footnote 1 references the authority of an inspector to stop and inspect, seize, quarantine, treat and otherwise dispose of regulated articles in accordance with provisions in the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) and Plant Quarantine Act (7 U.S.C. 164a). Footnote 2 references 7 CFR Part 330 which prescribes regulations for the movement in interstate or foreign commerce of the corn cyst nematode.

Regulated Areas

The areas that are infested in the State of Maryland are described in § 301.90–3(c) and are designated as "regulated areas." The State of Maryland has imposed a quarantine and is enforcing regulations in the intrastate movement of regulated articles which parallels the Federal quarantine. The areas of Cecil, Harford, Kent and Queen Annes Counties, Maryland, designated as regulated areas are described as follows:

Maryland

Cecil County. That portion of the county south of U.S. Highway 1 and the Maryland-Pennsylvania State line, and west of the Maryland-Delaware State line and U.S. Highway 301.

Harford County. That portion of the county southeast of U.S. Highway 1.

Kent County. That portion of the county west of U.S. Highway 301.

Queen Annes County. That portion of the county bounded by a line beginning at a point where U.S. Highway 301 intersects the Chester River, then southwesterly along said highway to its intersection with State Highway 304, then northwesterly along said highway to its intersection with the Chester River, then northeasterly along said river to U.S. Highway 301 (the point of beginning).

It is necessary to designate the above described areas as regulated areas because they are areas in which the corn cyst nematode has been found, or an area in which the Deputy Administrator has reason to believe the corn cyst nematode is present or an area deemed necessary to regulate because

of its proximity to the corn cyst nematode or its inseparability for quarantine enforcement purposes from localities where corn cyst nematode has been found.

Regulated Articles

The regulations are designed to impose restrictions on the interstate movement of those articles which are determined to have a significant risk of carrying corn cyst nematode at the time of movement of such articles from areas designated as regulated areas because of corn cyst nematode. This is necessary to prevent the artificial spread interstate of corn cyst nematode by these articles. The articles subject to these restrictions are designated as regulated articles and are subject to restrictions prescribed by § 301.90–4.

Section 301.90–2 designates the following articles as regulated articles:

(1) Soil (except soil samples for processing, testing, or analysis in accordance with 7 CFR Part 301), compost, humus, and muck, separately or with other things (such as attached to equipment);

(2) Plants with roots with soil attached, except houseplants grown in a residence and not for sale;

(3) Grass sod;

(4) Root crops with soil attached;

(5) Mechanized farm equipment which has been used for soil tillage or harvesting (e.g., tractors, combines, plows, disks, planters and cultivators);

(6) Custom farm equipment which has been used for soil treatment (e.g., lime and fertilizer trucks, tenders and nurse tanks);

(7) Mechanized soil-moving equipment which has been used to move or transport soil (e.g., draglines, bulldozers, road scrapers, rototillers and dump trucks); and

(8) Any other product, article, or means of conveyance, of any character whatsoever, not covered above when it is determined by an inspector that it presents a risk of spread of corn cyst nematode and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions in the quarantine and regulations.

Definitions

New § 301.90–1 contains definitions for informational purposes of certain terms used in the regulations. These include definitions of the terms "certificate", "compliance agreement", "Deputy Administrator", "Inspector", "limited permit", "Plant Protection and Quarantine", "regulated area", and "regulated article." Section 301.90–1 also contains definitions of the terms "interstate", "moved", "person", and "State" which are defined in accordance with definitions and authority set forth in the Plant Quarantine Act (7 U.S.C. 161, 162) and the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee).

Additional Provisions

In addition to the provisions described above which quarantine Maryland (§ 301.90), designate regulated articles (§ 301.90–2), designate regulated areas (§ 301.90–3) and define key terms used in Subpart 301.90 (§ 301.90–1), Subpart 301.90 prescribes conditions governing the interstate movement of regulated articles from regulated areas. These conditions are described below by section.

Requirements for Interstate Movement of Regulated Articles (§§ 301.90–4, 301.90–5, 301.90–7, and 301.90–8)

Section 301.90–4 authorizes the interstate movement of regulated articles from regulated areas if such articles are accompanied by a certificate or limited permit issued in accordance with §§ 301.90–5 and 301.90–8 or, without a certificate or limited permit if the article originates outside a regulated area and its identity is clearly maintained. Footnote 3 is added to remind persons that other applicable domestic plant quarantine and regulation requirements must be met.

Section 301.90–5 provides for the issuance of certificates and limited permits on regulated articles. Specifically, this section provides that certificates for movement of a regulated article shall be issued by an inspector if such inspector determines that: (1) The regulated article has been treated in accordance with the treatment schedule in § 301.90–10; or (2) the regulated article comes from a premises of origin which is free from corn cyst nematode; or (3) the regulated article is free of corn cyst nematode; (4) the regulated article will be moved in compliance with any additional emergency conditions necessary to prevent the spread of corn cyst nematode; and (5) the restricted article is eligible for unrestricted movement under all other applicable federal domestic plant quarantines and regulations. Two footnotes are added for informational purposes. Footnote 4 explains that treatments provided for in § 301.90–10 shall be monitored by USDA inspectors to assure compliance. Footnote 5 explains the emergency actions authorized by section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) that USDA can take against articles moving into or through the United States or interstate which are believed to be infested or infected by plant pests.

In addition, § 301.90–5 provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for movement of a regulated article if the inspector determines: (1) In consultation with the Deputy Administrator, that the regulated article is to be moved to a specified destination for specified handling, utilization, processing or treatment; (2) that the regulated article is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of corn cyst nematode; and (3) that the regulated article is eligible for movement under all other applicable federal domestic plant quarantines and regulations.

Section 301.90–5 also provides that certificates and limited permits may be issued (instead of issuance by an inspector) by a person engaged in the business of growing, handling or moving regulated articles, provided such person is operating under a compliance agreement (prescibed by § 301.90–6) and provides for the withdrawal of a certificate or limited permit if an inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document.

Sections 301.90–7 and 301.90–8 contain additional restrictions on the interstate movement of regulated articles. Specifically, § 301.90–7 provides that any person who desires a certificate or limited permit to move regulated articles should request inspection by an inspector as far in advance as possible (no less than 48 hours before the desired movement). A footnote, number 7, is added to indicate where to contact the inspectors. Section 301.90–8 requires a certificate or limited permit to be attached to the regulated article, a container carrying the regulated article, or the accompanying waybill or other shipping document during the interstate movement. These provisions are necessary for enforcement purposes and to insure that persons desiring inspection services can obtain them before the intended movement date.

Compliance Agreements (§ 301.90–6)

Section 301.90–6 provides for the issuance and cancellation of compliance agreements. This section provides that a compliance agreement can be entered into by any person engaged in the business of growing, handling, or moving regulated articles who agrees in writing to comply with the provisions of Subpart 301.90 and any conditions imposed pursuant thereto. Compliance agreements are provided for the convenience of persons who, because of

their business, are involved in frequent shipments of regulated articles from regulated areas. Footnote 6 is added to explain where compliance agreement forms can be obtained.

Costs and Charges (§ 301.90–9)

Section 301.90–9 explains the Department's policy that services of an inspector during regular hours of duty which are required to comply with the provisions of the quarantine and regulations in Subpart 301.90 are provided without cost, but that any other incidental costs or charges shall not be the responsibility of the Department.

Treatments (§ 301.90–10)

Section 301.90–10, captioned "Treatments," sets forth treatment schedules for certain regulated articles that must be met if such articles are to be certified prior to movement as treated articles (See § 301.90–4). The following treatments are recommended because research has determined that these treatments would be adequate to destroy the corn cyst nematode with little or no effect on the regulated article. Treatment schedules have not been developed for all regulated articles. However, § 301.90–5 provides other ways (beside treatment) in which an individual can obtain a certificate or limited permit for the interstate movement of the regulated article from a regulated area. The treatment schedules provided in § 301.90–10 are as follows:

Treatment schedules for used mechanized farm equipment, used mechanized soil moving equipment, used custom farm equipment, and used containers are as follows:

(a) Water under pressure using a single orifice nozzle. All soil and other debris must be removed.

(b) Steam by using portable steam jennies or other steam equipment. The steam must remove all soil and other debris.

Precaution: Steam may remove loose paint and usually is not recommended for use on machinery with conveyor belts and rubber parts.

Limitation: Whether washed or steam cleaned, all soil and debris must be removed. If in the judgment of the inspector, equipment cannot be adequately cleaned, it must be fumigated.

(c) Methyl bromide at normal atmospheric pressure (NAP), chamber or tarpaulin.

Dosage:

240 g/m³ (15 lbs./1000 ft³) for 24 hrs. at 15.5°C (60°F) or above.
(180 g (oz.) minimum concentration reading at ½ hr.)
(120 g (oz.) minimum concentration reading at 24 hrs.)

or

128 g/m³ (8 lbs./1000 ft³) for 48 hours at 15.5°C (60°F) or above.
(100 g (oz.) minimum concentration reading at ½ hr.)
(75 g (oz.) minimum concentration reading at 24 hrs.)
(50 g (oz.) minimum concentration reading at 48 hrs.)

Limitation: Soil should be removed prior to fumigation. Particular attention must be paid to removing compacted soil.

Executive Order 12291 and Regulatory Flexibility Act

The rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100,000 dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This amendment only affects the interstate movement of regulated articles from a portion of Cecil, Harford, Kent, and Queen Annes Counties, Maryland.

It appears based on information from the Maryland Department of Agriculture and the USDA Extension Service that fewer than 30 entities move regulated articles interstate from regulated areas. This compares with approximately 200 small entities that move regulated articles interstate from other parts of Maryland. Further, this number compares with several hundred small entities that move such articles interstate from nonregulated areas in other States.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recording requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plants (Agriculture), Quarantine, Transportation, Corn cyst nematode.

Title 7 of the Code of Federal Regulations is amended by adding "Subpart—Corn Cyst Nematode", consisting of §§ 301.90, 301.90–1 through 301.90–10, to read as follows:

Subpart—Corn Cyst Nematode

Quarantine and Regulations

Sec.

301.90 Quarantine and regulations; restrictions on interstate movement of regulated articles.
301.90–1 Definitions.
301.90–2 Regulated articles.
301.90–3 Regulated areas.
301.90–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.
301.90–5 Issuance and cancellation of certificates and limited permits.
301.90–6 Compliance agreement and cancellation thereof.
301.90–7 Assembly and inspection of regulated articles.
301.90–8 Attachment and disposition of certificates and limited permits.
301.90–9 Costs and charges.
301.90–10 Treatments.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sections 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 38477, as amended; 45 FR 8564, 8565.

Subpart—Corn Cyst Nematode

Quarantine and Regulations

§ 301.90 Quarantine and regulations; restrictions on interstate movement of regulated articles.[1, 2]

(a) *Quarantines and regulations.* The Secretary of Agriculture hereby quarantines the State of Maryland in order to prevent the artificial spread of the corn cyst nematode (*Heterodera zeae*), a dangerous plant pest not heretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.90–2.

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[2] Regulations concerning the movement of corn cyst nematode in interstate or foreign commerce are contained in Part 330 of this chapter.

§ 301.90–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.90–5(a).

(b) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(c) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(d) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantine and regulations in this subpart.

(e) *Interstate.* From any State into or through any other State.

(f) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.90–5(b).

(g) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, allowed to be moved or caused to be moved by any means. "Movement" and "move" shall be construed in accordance with this definition.

(h) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(i) *Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act and related legislation, and quarantines and regulations promulgated thereunder.

(j) *Regulated area.* Any State, or any portion thereof, listed in § 301.90–3(c) or otherwise designated as a regulated area in accordance with § 301.90–3(b).

(k) *Regulated article.* Any article listed in § 301.90–2 or otherwise designated as a regulated article in accordance with § 301.90–2.

(l) *State.* Each of the several States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and any other Territories or Possessions of the United States.

§ 301.90–2 Regulated articles.

The following articles are designated as regulated articles:

(a) Soil (except soil samples for processing, testing, or analysis in accordance with 7 CFR Part 301), compost, humus, and muck, separately or with other things (such as attached to equipment);

(b) Plants with roots with soil attached, except houseplants grown in a residence and not for sale;

(c) Grass sod;

(d) Root crops with soil attached;

(e) Mechanized farm equipment which has been used for soil tillage or harvesting (e.g., tractors, combines, plows, disks, planters and cultivators);

(f) Custom farm equipment which has been used for soil treatment (e.g., lime and fertilizer trucks, tenders and nurse tanks);

(g) Mechanized soil-moving equipment which has been used to move or transport soil (e.g., dragliners, bulldozers, road scrapers, rototillers and dump trucks); and

(h) Any other product, article, or means of conveyance, of any character whatsoever, not covered above when it is determined by an inspector that it presents a risk of spread of corn cyst nematode and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions in the quarantine and regulations.

§ 301.90–3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which the corn cyst nematode has been found by an inspector or in which the Deputy Administrator has reason to believe that the corn cyst nematode is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to the corn cyst nematode or its inseparability for quarantine enforcement purposes from localities in which the corn cyst nematode occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this pubpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the corn cyst nematode.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area and, thereafter, the interstate movement of any regulated articles from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

Maryland

Cecil County. That portion of the county south of U.S. Highway 1 and the Maryland-Pennsylvania State line, and west of the Maryland-Delaware State line and U.S. Highway 301.

Harford County. That portion of the county southeast of U.S. Highway 1.

Kent County. That portion of the county west of U.S. Highway 301.

Queen Annes County. That portion of the county bounded by a line beginning at a point where U.S. Highway 301 intersects the Chester River, then southwesterly along said highway to its intersection with State Highway 304, then northwesterly along said highway to its intersection with the Chester River, then northeasterly along said river to U.S. Highway 301 (the point of beginning).

§ 301.90–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[3]

Any regulated article may be moved interstate from any regulated area in a

[3] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

quarantined State only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.90–5 and 301.90–8;

(b) Without a certificate or limited permit, if (i) The article originated outside of any regulated areas, and (ii) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.90–5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if such inspector:

(1)(i) Determines that it has been treated under the direction of an inspector [4] in accordance with § 301.90–10; or (ii) Determines based on inspection of the premises of origin that it is free from the corn cyst nematode; or (iii) Determines that it has been grown, processed, stored or handled in such a manner that the regulated article is free of corn cyst nematode; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the corn cyst nematode pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [5] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, processing, or for treatment in accordance with § 301.90–10 (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the corn cyst nematode because life stages of the pest will be destroyed by such specified handling, utilization, processing, or treatment;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the corn cyst nematode pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [5] and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits for use for shipments of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if such person has treated such regulated article to destroy infestation in accordance with the provisions in § 301.90–10 and the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that such article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with all of the conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice governing such a hearing shall be established by the Deputy Administrator.

§ 301.90–6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated article may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[6] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decisions, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice governing such a hearing shall be established by the Deputy Administrator.

§ 301.90–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.90–5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired

[4] Treatments shall be monitored by inspectors in order to assure compliance with the requirements in this subpart.

[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means or conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

[6] Compliance Agreement forms are available without charges from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

movement), request an inspector [7] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such articles shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.90-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; *Provided however,* that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.90-9 Costs and charges.

The service of the inspector shall be furnished without cost, except as provided in 7 CFR Part 354. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.90-10 Treatments.

Treatments for regulated articles shall be as set forth below. Treatment schedules for used mechanized farm equipment, used mechanized soil moving equipment, used custom farm equipment, and used containers are as follows:

(a) Water under pressure using a single orifice nozzle. All soil and other debris must be removed.

(b) Steam by using portable steam jennies or other steam equipment. The steam must remove all soil and other debris.

Precaution: Steam may remove loose paint and usually is not recommended for use on machinery with conveyor belts and rubber parts.

Limitation: Whether washed or steam cleaned, all soil and debris must be removed. If in the judgment of the inspector, equipment cannot be adequately cleaned, it must be fumigated.

(c) Methyl bromide at normal atmospheric pressure (NAP), chamber or tarpaulin.

Dosage:

240 g/m ^{3} (15 lbs./1000 ft ^{3}) for 24 hrs. at 15.5° C (60° F) or above.
(180 g (oz.) minimum concentration reading at ½ hr.)
(120 g (oz.) minimum concentration reading at 24 hrs.)

or

128 g/m ^{3} (8 lbs./1000 ft ^{3}) for 48 hours at 15.5° C (60° F) or above.
(100 g (oz.) minimum concentration reading at ½ hr.)
(75 g (oz.) minimum concentration reading at 24 hrs.)
(50 g (oz.) minimum concentration reading at 48 hrs.)

Limitation: Soil should be removed prior to fumigation. Particular attention must be paid to removing compacted soil.

Done at Washington, D.C., this 26th day of April, 1984.

Richard R. Backus,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-11660 Filed 4-30-84; 8:45 am]
BILLING CODE 3410-34-M

[7] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-12-AD; Amdt. 39-4851]

Airworthiness Directives; Piper Models PA-31T, PA-31T1, PA-31T2 and PA-31T3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directives (AD), applicable to Piper Models PA-31T, PA-31T1, PA-31T2 and PA-31T3 airplanes which requires initial and repetitive dye-penetrant inspections of the fuselage bulkhead at station 332.0, for cracks and reinforcement or replacement of cracked bulkheads. Cracks in this bulkhead, in the area of the stabilizer main spar attachments, have occurred on Piper Model PA-31T Series airplanes. If bulkheads with cracks are not reinforced or replaced, propagation of the cracks may compromise the structural integrity of the stabilizer main spar attachment to the fuselage and result in loss of airplane control.

DATE: Effective Date: May 9, 1984. Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Aircraft Corporation Service Bulletin No. 773 applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Constantine Kallis, Airframe Section, ANE-172, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6221.

SUPPLEMENTARY INFORMATION: Several instances have been reported of cracking of the fuselage bulkhead at station 332.0 on Piper Model PA-31T Series airplanes, in the area to the front horizontal stabilizer spar attachment. The cracks have varied in length from two inches to six inches at the time of discovery. No structural failures or incidents have resulted from these cracks. The manufacturer has made available a structural repair kit for these bulkheads having cracks that do not exceed acceptable limits, and a reinforced bulkhead or replacement of bulkheads having cracks exceeding these limits. It has also issued Service Bulletin 773 which contains instructions for the inspection of this bulkhead, provides acceptable crack criteria, and makes available the reinforced bulkhead and parts for reinforcing the existing bulkhead.

The FAA has determined that cracks found on the fuselage bulkhead at Station 332.0 on PA-31T Series airplanes, if left uncorrected, can result in loss of structural integrity and possible loss of control of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD applicable to Piper Models PA-31T1, PA-31T1, PA-31T2 and PA-31T3 airplanes is being issued which requires initial and repetitive dye-penetrant inspections of this bulkhead for cracks, and if necessary repair or replacement of the bulkhead in accordance with Piper Service Bulletin No. 773 dated December 19, 1983. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice

and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Piper: Applies to Models PA–31T (Serial Numbers 31T–7400002 thru 31T–8120104); PA–31T1 (Serial Numbers 31T–7804001 thru 31T–8104073, 31T–8304003, 31T–1104004 thru 31T–1104007); PA–31T2 (Serial Numbers 31T–8166001 thru 31T–8166032, 31T–8166034 thru 31T–8166056, 31T–8166067 thru 31T–8166071, 31T–8166073 thru 31T–8166075); and PA–31T3 (Serial Numbers 31T–8275001, 31T–8275003 thru 31T–8275012, 31T–8275014 thru 31T–8275017, 31T–8275025, 31T–8375001 thru 31T–8375005) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent the propagation of cracks in the fuselage bulkhead at Station 332.0, and consequent loss of stabilizer front spar structural support, accomplish the following:

(a) Within 25 hours time-in-service after the effectice date of this AD or upon accumulation of 200 hours time-in-service, whichever occurs later, and each 200 hours time-in-service thereafter, inspect, using a dye-penetrant method, the fuselage station 332.0 bulkhead in accordance with Piper Service Bulletin 773 dated December 19, 1983.

(1) If cracks are found that do not exceed the acceptable limitations given in this service bulletin, prior to return to service, stop drill the crack(s), and install Piper Reinforcement Kit 764 983.

(2) If cracks are found that exceed the acceptable limitations given in this service bulletin, prior to return to service, replace the bulkhead assembly with Reinforced Bulkhead Assembly Part No. 45583–16 or 45583–17.

(b) The repetitive inspections required by paragraph (a) of this AD may be discontinued when Piper Reinforcement Kit 764 983, or replacement Bulkhead Piper Part No. 45583–16 or 45583–17 is installed.

(c) The intervals between repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) The airplanes may be flown, in accordance with FAR 21.197, to a location where the AD may be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, FAA New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective on May 9, 1984.

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

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

Issued in Kansas City, Missouri, on April 16, 1984.

James O. Robinson,

Acting Director, Central Region.

[FR Doc. 84–11623 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 83–AGL–29]

Establishment of Jet Routes and Area High Routes; Alteration of Jet Route J–106 Green Bay, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route J–106 between the Green Bay, WI, VORTAC and the Flint, MI, VORTAC. The realigned route reduces route mileage to users and reduces controller workload.

EFFECTIVE DATE: July 5, 1984.

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

SUPPLEMENTARY INFORMATION:

History

On February 8, 1984, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR 75) to realign Jet Route J–106 between Green Bay, WI, VORTAC and Flint, MI, VORTAC (49 FR 4778). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 75 of the Federal Regulations realigns Jet Route J–106 between Green Bay, WI, VORTAC and Flint, MI, VORTAC. The realignment established a direct course between the cited VORTACs resulting in reduced route mileage to users and reduced coordination workload for controllers.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 Gmt, July 5, 1984, as follows:

J–106 [Amended]

By deleting the words "INT Green Bay 106° and Flint, MI, 310° radials; Flint" and substituting the words "Flint, MI".

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

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

Issued in Washington, D.C. on April 20, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–11620 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 379 and 399

[Docket No. 40313-27]

Ammunition Hand-Loading Equipment Exported to the Republic of South Africa and Namibia

AGENCY: Office of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Office of Export Administration (OEA) issued a final rule (48 FR 2119, January 18, 1983) transferring export control over ammunition manufacturing machinery (except machinery for manufacturing shotgun shells) to the Office of Munitions Control, Department of State.

This action ended an overlap of export jurisdiction that had existed for several years. However, at the time of the January rule, OEA did not specify ammunition hand-loading equipment (for both cartridges and shotgun shells) as equipment that was retained under its jurisdiction.

This rule adds ammunition hand-loading equipment to Supplement No. 2 to Part 379 of the Export Administration Regulations, "Commodities Subject to Republic of South Africa and Namibia Embargo Policy." This rule also gives notice that ammunition hand-loading equipment (for both cartridges and shotgun shells) is controlled by entry 5399D of the Commodity Control List (Supplement No. 1 to section 399.1). Exporters need a validated export license to export such equipment to the Republic of South Africa and Namibia, as well as to destinations in Country Groups Q, S, W, Y or Z, Afghanistan and the People's Republic of China.

EFFECTIVE DATE: May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division (Telephone: (202) 377-3856), Office of Export Administration, Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule contains a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The collection of this information has been approved by the Office of Management and Budget (OMB control number 0625-0001).

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this rule is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 379

Exports, science and technology.

15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PART 379—[AMENDED]

1. Supplement No. 2 to Part 379, "Commodities Subject to Republic of South Africa and Namibia Embargo Policy," is amended by adding the phrase—"ammunition hand-loading equipment for both cartridges and shotgun shells,"—between "implements of war (ECCN 2018)," and "and equipment specially designed for manufacturing shotgun shells (ECCN 5399)" in paragraph 3.

PART 399—[AMENDED]

2. The Commodity Control List, Supplement No. 1 to section 399.1, is amended by revising the last sentence of the *Special South Africa and Namibia Controls* paragraph of Entry 5399D to read as follows: "A validated license is required for any export to the Republic of South Africa and Namibia of equipment specially designed for manufacturing shotgun shells and for any export of ammunition hand-loading equipment for both cartridges and shotgun shells."

Authority: Secs. 6, 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Executive Order No. 12451 of December 20, 1983 (48 FR 56563, December 22, 1983).

Dated: March 13, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-11633 Filed 4-30-84; 8:45 am]

BILLING CODE 3510-DT-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6525; 34-20894; 35-23290; FR 17; File No. S7-992]

Oil and Gas Producers; Full Cost Accounting Practices

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting amendments to its rules for recognition of gain or loss on sales and other transfers of oil and gas properties by registrants using the full cost method of accounting. The revised rules generally prohibit income recognition in connection with sales or other conveyances of oil and gas properties, and clarify the circumstances in which income may be recognized for management fees and compensation relating to contract services.

DATES: Effective June 1, 1984. The rules adopted herein are applicable to transactions occurring after May 31, 1984. Earlier implementation is permitted for transactions not yet reflected in annual financial statements.

FOR FURTHER INFORMATION CONTACT: John W. Albert or Lawrence S. Jones (202-272-2130), Office of the Chief Accountant, or James W. Ford, Jr. (202-272-2553), Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting final rules which amend its requirements for application of the full cost method of accounting by oil and gas producers to generally prohibit income recognition in connection with sales or other conveyances of oil and gas properties. The amended rules also clarify the circumstances in which income may be recognized in connection with the receipt of certain management fees and compensation relating to contract services.

Background

The Commission's rules on the application of the full cost method of accounting by oil and gas producers

have generally prohibited income recognition on sales or transfers of oil and gas properties except when the sale causes a significant alteration in the relationship between capitalized costs and proved reserves attributable to a cost center.[1] In addition, the staff has permitted income recognition when the properties sold were held primarily for lease brokerage purposes.[2]

In Securities Act Release No. 6445 [3], the Commission proposed to clarify its rules on income recognition and to codify the exception relating to lease brokerage activities ("the original proposals") on the theory that the full cost method of accounting need not be applied to properties maintained in a separate line of business from exploration and production activities. The original proposals also would have codified the policy, reflected in Staff Accounting Bulletin No. 47, to allow recognition as income, under certain circumstances, of management fees received by registrants engaged in organizing and managing limited partnerships involved only in the purchase of proved producing properties and subsequent distribution of income from such properties (commonly known as "income funds").

Based on its evaluation of the comment letters received on the original proposals, the Commission determined to reconsider these proposals. As explained in the reproposing release,[4] the Commission was persuaded by comments that the lease brokerage concept was not workable because of significant practical and conceptual difficulties in distinguishing lease brokerage from production activities. Accordingly, the Commission's reproposing release would have generally eliminated income recognition in connection with sales or other conveyances of oil and gas properties. In addition, the revised rule proposals would have prohibited recognition as income of management fees and compensation for drilling and other services performed on properties in which an ownership or other economic interest is acquired or retained. The revised proposal reflected the view that current recognition of management fee and service contract income would be inconsistent with the full cost concept under which income is recognized only as reserves are produced.

Evaluation of Comments

The Commission received 31 comment letters of which 23 addressed the issue of income recognition on sales or other conveyances of property. More than 75% of these commentators expressed support for a general prohibition against recognizing gains or losses on sales or transfers of oil and gas producing properties.

These commentators generally concurred with the view that the lease brokerage concept is not workable and could not be practicably implemented. Commentators also noted that the proposed rules would prevent the erosion of basic distinctions between the full cost and successful efforts methods of accounting.

The commentators opposing the proposed prohibition of income recognition on sales of property generally believe that a lease brokerage concept should be allowed and that guidelines could be established to prevent abuses. These commentators argued that companies that have separate lines of business and can separate their properties into two distinct classes at the date of acquisition should be allowed to do so.

Twelve of the comment letters addressed the issue of recognition as income of management fees. Over 80% of these commentators opposed the proposal to prohibit income recognition and argued that organizing an income fund for producing properties is fundamentally different from a partnership or joint venture formed to explore or develop non-producing properties. These commentators indicated that compensation for services rendered to income funds is a separate issue from the reinvestment of that compensation to acquire an interest in the properties, even though ultimate realization of that interest would be dependent upon successful and profitable production of reserves. Several commentators suggested that income recognition should be allowed to the extent consideration received exceeds any estimated exploration and development cost which must be subsequently incurred.

Commentators supporting the proposal to prohibit recognition of management fee income pointed out that ultimate realization of income which is reinvested in the properties is subject to substantial risk arising from uncertainties regarding quantities of reserves, potential changes in market prices and costs, and tax law revisions.

Finally, 25 comment letters addressed the issue of income recognition for drilling and other services on properties in which the registrant has or acquires an economic interest. All of these commentators opposed the Commission's proposed general prohibition of income recognition for services. Two commentators suggested that the prohibition should apply only if the service activities are an integral part of a company's oil and gas producing activities and such services are provided primarily to affiliates or related entities that own an interest in the properties. These circumstances would suggest that the activities are more like traditional drilling arrangements than contract services. Most commentators argued that service activities constitute a separate line of business and pointed out that companies are often forced to acquire an incidental economic interest in properties in order to obtain the service contract. In these cases, the commentators indicated that income should be recognized to the extent of third party interests in the properties.

Discussion of Final Rule

The final rules prohibit recognition of income on sales or other transfers of oil and gas properties in connection with partnerships, joint venture operations, or various other forms of drilling arrangements, except when there is a significant alteration of the relationship between costs and proved reserves pursuant to existing Rule 4–10(i)(6)(i) of Regulation S–X. The Commission concluded that the lease brokerage concept is not workable, and that the approach adopted is objective and will lead to more consistent and comparable application than the lease brokerage concept.

The revised rules also provide, as proposed, that income may be recognized for those amounts which represent reimbursement of organization, offering, general and administrative expenses, etc., that are identifiable with the transaction, if such amounts are currently incurred and charged to expense.

With respect to the recognition as income of management fees, the revised rules make a distinction between arrangements involving proved developed properties and those involving other properties because the Commission understands that the risk of realization of an investment in an income fund is substantially less than that related to properties requiring significant further exploration and

[1] Rule 4–10(i)(6) of Regulation S–X [17 CFR 210].

[2] Staff Accounting Bulletin No. 47 provided the staff's interpretation that sales of properties held primarily for lease brokerage purposes were not subject to the general prohibition of income recognition if certain conditions were met. *See*, Staff Accounting Bulletin No. 47, Topic 12–D–4 [47 FR 41727] which is deleted by this release.

[3] Securities Act Release No. 6445 [47 FR 58281] issued December 12, 1982.

[4] Securities Act Release No. 6484 [48 FR 44221] issued September 16, 1983.

development. Accordingly, the Commission's revised rules provide that management fees received in connection with income funds may be recognized as income provided that any estimated development expenditures required in connection with the production of the existing proved reserves are less than 10% of the partnership's recorded cost of the properties.

Any fees not recognized as income under this rule would be credited to the full cost pool and recognized through a lower amortization provision as reserves are produced. Any management fees received in connection with unproved properties or proved undeveloped properties would be credited to the full cost account.

The revised rules with respect to drilling and other contractual services on properties in which the registrant has or acquires an economic interest permit income recognition under specified circumstances. Commentators argued that a general prohibition against income recognition for contractual services would be unduly restrictive, particularly where a minor interest is required to be acquired in order to obtain the service contract.

The Commission is persuaded by the comments that the mere existence of an economic interest in properties upon which services are performed pursuant to a contract should not result in a prohibition of recognition of any income from such services. It believes, however, that income should only be recognized to the extent it exceeds a company's costs in connection with the contract and the properties. The identification of the costs of the properties may be difficult once the registrant has held an economic interest in the properties for more than one year, however. Under full cost accounting, costs of properties lose their specific identity once transferred into a full cost pool. To determine the cost of a specific property, it would be necessary to allocate certain adjustments, such as amortization, made to the properties as a group. Accordingly, the final rules differentiate between services performed on properties as to which the registrant has held an economic interest for at least a year from those performed on properties as to which the registrant acquires or acquired the interest within a year of the date of the service contract. If the interest is acquired within a year of the date of the service contract income may be recognized to the extent that cash consideration received exceeds the registrant's costs. These costs include the registrant's costs of acquiring the properties and performing the services as well as its share of other costs incurred and estimated to be incurred in connection with the properties. Registrants that acquired the economic interest in the properties more than a year before the date of the service contract are permitted to recognize income from the contract pursuant to generally accepted accounting principles. Accordingly, a company may recognize income for compensation received relating to contractual services under the following conditions:

(1) Where an interest in the properties is acquired in connection with a service contract, income may be recognized to the extent the cash consideration received, net of the cost associated with such contract, exceeds the company's share of costs incurred and estimated to be incurred in connection with such properties. Ownership interests acquired within one year of the date of such a contract are considered to be acquired in connection with the service for purposes of applying this rule. the amount of any guarantees or similar arrangements undertaken as part of this contract should be considered as part of such costs for purposes of applying this rule.[5]

(2) Where an interest in the properties has been held for at least one year through transactions unrelated to the service contract, and that interest is unaffected by the service contract, income may be recognized subject to the general provisions for elimination of intercompany profit under generally accepted accounting principles.

(3) If the company performs contractual services on behalf of investors in oil and gas producing activities managed by the company or an affiliate, no income from those contractual services should be recognized.

Any income not recognized as a result of these rules would be credited to the full cost account and recognized through a lower amortization provision as reserves are produced.

[5] For example, assume that a company drills a well on a property in which it acquires a 2% working interest and receives $500,000 for these services. Assume also that the costs of drilling are $400,000. The company is required to pay $12,000 for its working interest in the property, and is obligated to pay an additional $15,000 for its share of estimated future exploration and development costs. In addition, the company guarantees $10,000 of the indebtedness incurred to acquire the leasehold. Under these rules, income from drilling would be recognized in the amount which the consideration received ($500,000) net of related costs ($400,000) exceeds the company's share of total costs, incurred and to be incurred ($27,000), and its guarantee of the indebtedness ($10,000), or $63,000. If the acquired interest is in addition to an existing interest held at least one year as a result of unrelated transactions, the company should base this computation on the costs incurred and to be incurred associated with the additional interest acquired.

Deletion of Staff Accounting Bulletin Guidance

Because the final rules announced in this release eliminate the recognition of income under the lease brokerage concept, the interpretive guidance on lease brokerage activities provided in Staff Accounting Bulletin No. 47 is superseded by these rules. Consequently, Topic 12-D-4 is deleted from the Staff Accounting Bulletin Series.

Regulatory Flexibility Act Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 604(a), the Commission has prepared a final regulatory flexibility analysis of the economic impact which the amendments adopted herein will have on small entities. This analysis is attached to this release.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Remove the third paragraph of section 406.01.c.iv and add the section of this release entitled "Discussion of Final Rules".

This codification is a separate publication issued by the Commission. It will not be published in the Federal Register/Code of Federal Regulations.

List of Subjects in 17 CFR Part 210

Accounting, Reporting and recordkeeping requirements, Securities.

Text of Rules

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By revising the paragraph heading for paragraph (i)(6), by revising paragraph (i)(6)(iii) and adding paragraph (i)(6)(iv) of § 210.4-10 to read as follows:

§ 210.4–10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(i) *Application of the full cost method of accounting.*

* * * * *

(6) *Other transactions.* * * *

* * * * *

(iii) *Partnerships, joint ventures and drilling arrangements.* (A) Except as provided in subparagraph (i)(6)(i) of this section, all consideration received from sales or transfers of properties in connection with partnerships, joint venture operations, or various other forms of drilling arrangements involving oil and gas exploration and development activities (e.g., carried interest, turnkey wells, management fees, etc.) shall be credited to the full cost account, except to the extent of amounts that represent reimbursement of organization, offering, general and administrative expenses, etc., that are identifiable with the transaction, if such amounts are currently incurred and charged to expense.

(B) Where a registrant organizes and manages a limited partnership involved only in the purchase of proved developed properties and subsequent distribution of income from such properties, management fee income may be recognized provided the properties involved do not require aggregate development expenditures in connection with production of existing proved reserves in excess of 10% of the partnership's recorded cost of such properties. Any income not recognized as a result of this limitation would be credited to the full cost account and recognized through a lower amortization provision as reserves are produced.

(iv) *Other services.* No income shall be recognized in connection with contractual services performed (e.g. drilling, well service, or equipment supply services, etc.) in connection with properties in which the registrant or an affiliate (as defined in § 210.1–02(b)) holds an ownership or other economic interest, except as follows:

(A) Where the registrant acquires an interest in the properties in connection with the service contract, income may be recognized to the extent the cash consideration received exceeds the related contract costs plus the registrant's share of costs incurred and estimated to be incurred in connection with the properties. Ownership interests acquired within one year of the date of such a contract are considered to be acquired in connection with the service for purposes of applying this rule. The amount of any guarantees or similar arrangements undertaken as part of this contract should be considered as part of the costs related to the properties for purposes of applying this rule.

(B) Where the registrant acquired an interest in the properties at least one year before the date of the service contract through transactions unrelated to the service contract, and that interest is unaffected by the service contract, income from such contract may be recognized subject to the general provisions for elimination of inter-company profit under generally accepted accounting principles.

(C) Notwithstanding the provisions of (A) and (B) above, no income may be recognized for contractual services performed on behalf of investors in oil and gas producing activities managed by the registrant or an affiliate. Furthermore, no income may be recognized for contractual services to the extent that the consideration received for such services represents an interest in the underlying property.

(D) Any income not recognized as a result of these rules would be credited to the full cost account and recognized through a lower amortization provision as reserves are produced.

* * * * *

Authority

These amendments are adopted pursuant to the authority in Sections 5, 6, 7, 8, 10, 19(a) and Schedule A [25] and [26] [15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77s(a) and 77aa [25] and [26]] of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w(a)] of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) [15 U.S.C. 79e(b), 79n, 79t(a)] of the Public Utility Holding Company Act of 1935 and Section 503 [42 U.S.C. 6383] of the Energy Policy and Conservation Act of 1975.

By the Commission.

Dated: April 25, 1984.

Shirley E. Hollis,

Assistant Secretary.

Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis, which relates to amendments of the Regulation S–X rules for application of the full cost method of accounting by oil and gas producers, has been prepared in accordance with 5 U.S.C. 604(a). The corresponding initial regulatory flexibility analysis appears at 48 FR 44223 [Release No. 33–6484].

1. Need for and Objectives of Rule—As discussed in the section of the release entitled, "Background," the staff became aware of confusion as to the circumstances under which the Commission's rules permit gain or loss recognition on transfers of oil and gas producing properties. This misunderstanding has created a potential for inconsistency in accounting practice and noncomparability of reported results.

Rule 4–10(i)(6) has generally prohibited gain recognition with limited exceptions. However, the staff permitted income recognition on the sale of properties held in a separate lease brokerage inventory account based on the view that such transactions were not prohibited by the existing rules. Rules were proposed in December 1982 to codify this staff approach. Commentators on that proposal maintained that the lease brokerage concept was not workable because of significant practical and conceptual difficulties in distinguishing lease brokerage from production activities. In response, the Commission reconsidered the staff approach. Because it recognized that a general prohibition against income recognition would have a significant impact on the operating results of some full cost companies, it reproposed rules for public comment in order to ensure that all arguments in favor of income recognition would be adequately heard and considered.

The final rule prohibits income recognition on sales of oil and gas properties, except in specified circumstances. The rule amendments should narrow the diversity in current practice resulting from varying interpretations of the existing rules. In addition, the amendments clarify when registrants can recognize management fees and compensation from drilling and other services as income in response to comments as discussed in 2 below.

2. Issues Raised by Public Comments—The only commentator to specifically address the Initial Regulatory Flexibility Analysis published with the proposed rules opposed the scope of the proposed rules as they relate to drilling and other contract services. The proposed rules would not have permitted recognition as income of management fees or compensation from drilling or other services for the same reason that recognition of income on sales of properties was proposed to be prohibited, that is, gains should be

credited against the full cost pool because the full cost theory is based on the concept that all costs incurred in the exploration and production of oil and gas reserves are capitalized in a cost center and amortized over the period that the reserves are produced. The commentators disagreed with this approach arguing that, in certain circumstances, such amounts should be recognized, as discussed more fully in the Commission's release announcing adoption of the rules, because of the absence of significant risk associated with the registrant's interest in the property. The final rules have been revised to permit income recognition of certain management fees and of compensation from drilling services under certain limited circumstances.

3. Significant Alternatives—Consideration of differing reporting or compliance requirements or reporting timetables that take into account the different resources of small entities is not necessary since the amendments will not change the recordkeeping requirements or other compliance burdens. Furthermore, since the amendments involve fundamental accounting issues for full cost oil and gas producing companies and comparability of financial statements is an essential aspect of accounting and financial reporting, an exemption or an alternative approach designed particularly for small entities would not be appropriate.

In the Commission's view, the fundamental performance standard for financial reporting is the presentation of all information material for rational investment decisions. The existence of many alternative approaches to disclosure may result in reduced comparability in the data reported and the form of presentation, thereby adversely affecting the ability to analyze the financial statements. Because comparability in financial reporting is important in evaluating issuers' operational and managerial performance, the Commission has historically acted to minimize excessive diversity in reporting of material information when it occurs among companies in essentially the same circumstances. This is generally accomplished by establishing design standards for reporting as the Commission seeks to do in the present case with full cost accounting by oil and gas producers.

[FR Doc. 84-11592 Filed 4-30-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-213 (Texas-2 Addition II); Order No. 370]

High-Cost Gas Produced From Tight Formations; Texas

Issued: April 25, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 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 final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Canyon Sand Formation located in Irion County, Texas be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Elisabeth Pendley, (202) 357-8476, or Walter W. Lawson, (202) 357-8556.

The Commission amends § 271.703(d) of its regulations [1] to include the Canyon Sand Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued September 12, 1983 [2] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that the Canyon Sand Formation, located in Irion County, Texas be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Canyon Sand Formation, located in Irion County, Texas meets the guidelines contained in § 271.703(c)(2).[3] The Commission adopts the Texas recommendation.

This amendment shall become effective May 25, 1984

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read 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)(10)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(10) *Canyon Sandstone Formation in Texas.* RM79-76 (Texas—2). * * *

(iii) *Irion County.*—(A) *Delineation of formation.* The Canyon Sandstone Formation is located in all of the portion of Irion County which lies to the east of a straight line directed between the junction of Crockett, Schleicher, and Irion Counties at the south end of the line and the junction of Reagan, Tom Green, and Irion Counties at the north end of the line.

(B) *Depth.* The Canyon Sandstone Formation is that interval from 6,290 feet to the top of the Strawn Formation at 7,870 feet shown on the electric log of the John H. Hill, McManus No. 1 well located in the north central part of Irion County in Section 35, Block 6, H&TC RR. Co. Survey. The top of the formation dips at a rate of approximately 50 feet per mile in a west-southwest direction across the designated area.

[FR Doc. 84-11626 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 271.703(d) (1983).

[2] 48 FR 41434, September 15, 1983. Comments on the proposed rule were invited but none were received. No party requested a public hearing and no hearing was held.

[3] The Commission previously designated a portion of the Canyon Sandstone Formation in Crockett, Edwards, Schleicher, Sutton, Terrell, and Val Verde Counties as a tight formation in order No. 329 (Texas 2) on September 27, 1983.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 906 by (1) removing certain conditions of the Secretary of the Interior's approval of the Colorado permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and (2) approving certain additional amendments to the Colorado program. The conditions being removed by the Secretary pertain to the right of entry to authorized representatives of the Secretary; to the authority for the State to inspect on an "irregular basis"; and to replacement of surety bonds. The three additional amendments being approved by the Secretary pertain to: repeal of State provisions when and if Federal provisions are repealed, deleted or withdrawn; deletion of provisions for permit approval or disapproval criteria for existing structures; and revision of rules concerning effluent limitations.

After providing opportunity for public comment and conducting a thorough review of the program amendments and related material, the Secretary has decided to approve certain of the modifications and to remove some of the conditions of approval.

EFFECTIVE DATE: The removal of these conditions and the approval of these program amendments are effective on May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue, NW., Suite 216, Albuquerque, New Mexico 87102, Telephone: (505) 766–1486.

ADDRESSES: Copies of the amendments to the Colorado program and all written comments received on the proposed amendments are available for public review at the OSM Headquarters Office, the OSM Albuquerque Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Suite 216, Albuquerque, New Mexico, Telephone: (505) 766–1486

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896

Colorado Mined Land Reclamation Division, Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 82020.

SUPPLEMENTARY INFORMATION: On February 29, 1980, OSM received a proposed regulatory program from the State of Colorado. On December 15, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 45 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1980, **Federal Register** (45 FR 82173–82214).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Colorado program can be found in the December 15, 1980 **Federal Register** (45 FR 82173–82214).

Background

On January 7 and February 9, 1982, OSM received from the State of Colorado material intended to satisfy 45 program conditions. The State also submitted certain revisions to the State regulations unrelated to the program conditions.

OSM published a notice in the **Federal Register** on February 25, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies, and whether the Secretary should approve the additional amendments to the State program (47 FR 8207–8212). A public hearing scheduled March 23, 1982, was not held because no one expressed a desire to present testimony. The public comment period closed March 29, 1982. Subsequent to the close of the public comment period, it became apparent that certain other proposed amendments to the Colarado program had been omitted from the February 25, 1982 **Federal Register** notice. OSM then reopened the public comment period on June 16, 1982 (47 FR 25979–25981) on the program amendments not described in the February 25, 1982 notice. The public comment period ended on July 6, 1982.

On December 16, 1982 the Secretary published in the **Federal Register** (47 FR 56342–56351) his findings on the material submitted by Colorado to satisfy conditions placed on the Colorado program. The Secretary also indicated in the December 16, 1982 **Federal Register** that he had not completed his review of all the material submitted by Colorado on January 7 and February 9, 1982, to correct the following conditions: Condition (c), relating to technical guidance documents; condition (d), relating to success of revegetation; condition (1), relating to right of entry; condition (p), relating to permit renewal; condition (r), relating to inspections; condition (bb)(3), relating to replacement of surety bonds; condition (ee), relating to citizen suits; condition (oo), relating to limitations placed on underground operations; and condition (ss), relating to inspection reports and the additional amendments unrelated to conditions pertaining to compliance with all effluent limitations addressed at rule 4.05.3(5); deletion of portions of rule 2.07.6(3) relating to criteria for permit approval or denial regarding existing structures; and a Colorado Attorney General's opinion regarding Colorado S.B. 370 concerning repeal of State statutory or regulation provisions after a Federal counterpart has been repealed. Therefore, the Secretary deferred a decision on these materials until a later date.

Subsequent to the December 16, 1982 **Federal Register** notice, a meeting was held on February 9, 1983, between representatives of OSM and the Colorado Mined Land Reclamation Division to discuss the remaining conditions and the additional proposed amendments to the Colorado program. As a result of the meeting, the State of Colorado submitted to OSM on May 26, 1983, additional information intended to satisfy conditions (bb)(3), (ee) and (oo). Also, the State, on August 2, 1983, provided to OSM material from the Colorado Attorney General's office that clarifies Colorado S.B. 370's effect on the Colorado statute as it pertains to repeal of State provisions after repeal of a counterpart Federal provision.

OSM published a notice in the **Federal Register** on December 1, 1983, announcing receipt of this material and inviting public comment on whether the additional material corrected the deficiencies and whether the Secretary should approve the proposed amendments to the State program (48 FR 54249–54251). The comment period closed December 16, 1983.

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Colorado permanent

regulatory program, as submitted for his approval, contained 45 deficiencies. As discussed, Colorado submitted modifications which completely satisfied 35 conditions and partially satisfied 1 condition. Colorado has requested an extension to meet condition (mm) concerning award of attorney's fees. The extension request is the subject of a pending rulemaking (47 FR 56342–56351) and is not addressed in this notice. The following eight conditions and one partial condition of approval are discussed in this notice:

1. The Colorado program did not have fully promulgated regulations requiring the approval of the Director of the Office of Surface Mining in the selection of alternative technical guidance documents for revegetation success as required by 30 CFR 816.116(b) and 817.116(b) (Condition (c)).

2. The Colorado program did not have fully promulgated regulations providing for the approval of the Director of the Office of Surface Mining of revegetation success standards on small mines consistent with 30 CFR 816.116 and 817.116 (Condition (d)).

3. The Colorado program did not have fully promulgated regulations requiring that each permit issued by Colorado allow for the right of entry to authorized representatives of the Secretary of the Interior consistent with section 517(c) of SMCRA (Condition (1)).

4. The Colorado program did not have a fully enacted statute providing that the holder of a valid permit may not continue mining beyond the expiration date of the permit if the final administrative decision is not to renew the permit consistent with section 506(d)(3) (Condition (f)).

5. The Colorado program did not have a fully enacted statute providing for inspections on an "irregular basis," for permitted operations which are inactive consistent with section 517(c)(1) of SMCRA (Condition (r)).

6. The Colorado program did not have fully promulgated regulations which provide for issuance of a cessation order to operators who have not replaced a surety bond within 90 days after incapacity of the surety consistent with 30 CFR 806.12(e)(6)(iii) and 806.12(g)(7)(iii) (Condition (bb)(3)).

7. The Colorado program did not have a fully enacted statute requiring a showing that a violation or order would immediately affect the legal interest of the plaintiff as a condition precedent to commencement of a citizen's suit without 60 days prior notice, consistent with section 520(b)(2) of SMCRA (Condition (ee)).

8. The Colorado statute at section 34–48–102 allowed a priority of right exception to the restriction on mining under any building or other improvements without securing the owner against damages, which is inconsistent with section 516(c) of SMCRA (Condition (oo)).

9. The Colorado program did not have fully promulgated regulations consistent with 30 CFR 840.11(d)(3), requiring that inspection reports be adequate to enforce the requirements of and carry out the terms and purposes of the State program (Condition (ss)).

Secretary's Findings

Set forth below, pursuant to 30 CFR 732.15 and 732.17, are the Secretary's findings concerning those program modifications submitted by Colorado which satisfy existing program conditions.

1. As discussed in Finding 4(d)(ix) of the December 15, 1980 **Federal Register** notice, the Secretary found that the State had no equivalent provision to 30 CFR 786.27(b) which requires that each permit issued by the regulatory authority insure that the permittee shall allow right of entry to authorized representatives of the Secretary. The Secretary conditioned his approval by requiring a modification of the Colorado regulations to require that issued permits ensure that permittees allow right of entry to authorized representatives of the Secretary.

However, based on discussions in a meeting on February 9, 1983, between officials of OSM and the State and on a subsequent review of the condition, the Secretary has determined, as discussed below, that there is sufficient rationale and justification for removing the condition.

Section 517(a) of the SMCRA directs the Secretary to conduct oversight inspections and provides that representatives of the Secretary shall have the right to enter surface mining operations. Colorado has stated that this provision is direct authorization for OSM to conduct warrantless Federal inspections without a provision in a permit issued pursuant to the State regulatory program. The Fourth Amendment to the Constitution imposes limitations on government searches. Generally, a warrant is required in order to conduct a search. The Fourth Amendment provision has been held to apply to administrative inspection of private commercial property. *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307 (1978). However, an exception has recently been recognized by the Supreme Court. Ordinarily, the owner of a commercial enterprise does not have the same degree of expectation of being free from unreasonable searches as a homeowner. In two cases, *Colonnade Catering Corp.* v. *United States*, 397 U.S. 73 (1970), (Federal inspection of a retail liquor establishment) and *United States* v. *Biswell*, 406 U.S. 31 (1972) (Federal regulation under the 1968 Gun Control Act), the Supreme Court established several tests determining whether a warrantless search is permissible. If the business involved is pervasively regulated and has a long tradition of close government supervision, then a businessman does not have the same reasonable expectation of privacy as a homeowner and a warrantless search may be permissible. Put another way, the Court has concluded that the businessman has impliedly consented to such searches when he enters an industry that has a long history of pervasive regulation. In *Donovan* v. *Dewey*, 452 U.S. 594 (1981), the Court narrowed the test established in the earlier cases to allow warrantless inspections under the Coal Mine Health and Safety Act of 1977, 30 U.S.C. Section 801 *et seq.*, by almost disregarding the second part of the test—that the industry have a long tradition of close regulation.

Section 103(a) of that Act, 30 U.S.C. 813(a), is a provision comparable in its terms to Section 517(a) of the Surface Mining Act. The Court in *Donovan* finessed the *Colonnade* and *Biswell* two-part test by emphasizing the statutorily set inspection frequency provision of the Federal Mine Health and Safety Act. By the statutory specification of inspection frequency (four times a year for underground mines and twice a year for all other mines), the Court was able to conclude that the mine operator did not have a reasonable expectation of privacy.

By that same reasoning, an operator under SMCRA should not have a reasonable expectation of privacy because section 517(a) sets an inspection frequency. Although, under a State regulatory program the inspection is conducted by the State regulatory authority at the specified frequency, the Secretary conducts oversight inspections on a random basis in accordance with a policy set to achieve at least a certain confidence level.

> [W]arrantless inspections of commercial property may be constitutionally objectionable if their occurrence is so random, infrequent or unpredictable that the owner, for all practical purposes, has no real expectation that his property will from time to time be inspected by government officials. *Donovan* at 599 citing *Marshall* v. *Barlow's, Inc.*, 436 U.S. at 323.

Also, the Secretary has determined that there are no provisions in the Colorado

statute or regulations which would prevent warrantless Federal oversight inspections. Therefore, the Secretary finds the Colorado program does not conflict with the Federal provisions and thus removes condition (1) of his approval of the state's program.

2. As discussed in Finding 4(f)(i) of the December 15, 1980 **Federal Register** notice, the Secretary found the Colorado program not to be consistent with section 517(c)(1) of SMCRA and 30 CFR 840.11(d)(1) which provide that inspections occur on an irregular basis, including those which operate nights, weekends or holidays. CRS 34–33–122(4)(b) and SR 5.02.2(3) limited such inspections to emergency situations and "normal business hours." Colorado interpreted "normal business hours" to be all times that a mine was regularly operating or, in the case of a closed mine, the hours it would have been operating if it were open (June 11, 1980 submission, p. 8, State Response to OSM Review of Colorado Act). The Secretary conditioned his approval by requiring the State to amend its program by removing the phrase "normal business hours" from the authority to conduct inspections. Colorado amended its statute at CRS 34–33–122(4)(b) to provide that inspections shall occur on an *irregular* basis "during times of operation at the mine," but allows site inspections "at any time" if an operation lacks a valid permit or if there is reason to believe that significant environmental harm exists in a particular instance. Colorado was asked to clarify its authority with respect to inactive sites. In the meeting of February 9, 1983, Colorado stated that it had the authority under Colorado laws and regulations to inspect all sites both active and inactive. Therefore, the Secretary finds that revised CRS 34–33–122(4)(b) and the clarification provided on February 9, 1983 are consistent with the Federal requirements concerning inspections occurring on an irregular basis. Also, the adoption of the amendment satisfies condition (r) of the Secretary's approval of the State's program.

3. As discussed in Finding 4(g)(xiii)(H) of the December 15, 1980 **Federal Register** notice, the secretary found the Colorado program not to be consistent with 30 CFR 806.12(e)(6)(iii) and 806.12(g)(7)(iii) which required that a cessation order be given operators who have not replaced a surety bond within 90 days after incapacity of the surety. The State regulations at 3.02.4(2)(b)(v)(C) and 3.02.4(2)(d)(vi)(c) provide for this but also add that the State may amend the relevant permit to include only those operations for which any other remaining bond liability is sufficient. This would be in lieu of issuing a cessation order if suitable replacement bond is not provided after 90 days. The Secretary conditioned his approval by requiring a modification to the Colorado regulations to require that the State issue a cessation order to an operator who has not replaced a bond within 90 days of incapacity of the surety.

However, based on discussions in a meeting held February 9, 1983, between officials of OSM and the State, a subsequent explanation of Colorado's intent as expressed in the May 26, 1983 document, and a review of the condition in light of the revised Federal regulations of 30 CFR 800.15(c) published in 48 **Federal Register** 32961 (July 19, 1983), the Secretary has concluded, as discussed below, that there is sufficient justification for removing the condition. Colorado Rules 3.02.4(b)(v) and 3.02.4(b)(vi)(c) provide the State with two options in the event that a surety company bankrupts, becomes insolvent or has its license suspended or revoked. The first option allows the State to reduce or modify the permit area so that any existing bond would sufficiently cover all lands affected by mining activity. Lands that would be removed from the permit area would be only those lands not affected by mining. If the adjustment of the permit does not solve the problem of insufficient bond, then the State has the authority to exercise its second option, that being the issuance of a cessation order. Therefore, the Secretary finds that Colorado Rules 3.02.4(a)(b)(v)(c) and 3.02.4(a)(d)(vi)(c) are not inconsistent with the Federal provisions and thus removes condition (bb)(3) of his approval of the State program. Set forth below are the Secretary's findings concerning those program modifications submitted by Colorado which do not satisfy existing program conditions.

4. As discussed in Finding (c)(ii) of the December 15, 1980 **Federal Register** notice, Section 4.05.6(4)(b)(i) of the Colorado regulations was found not to be consistent with 30 CFR 816.116(b) and 30 CFR 817.116(b). The State regulations at 4.15.7(d)(ii) allow the selection of technical guidance documents for revegetation success to be made after consultation with the Director of OSM. The Federal rules require the approval of the Director of OSM in the selection of such documents. The State explained in its submission of July 16, 1980 (page 5), and in the meeting with OSM on February 9, 1983, that it intends to work with OSM when selecting alternative technical guidance documents for use in establishing standards that may be used in lieu of reference areas when determining whether a given area has been successfully revegetated. Under the Colorado program a success standard is developed for each mine following the parameters set forth in section 4.15.7 of the State regulations. The State pointed to its provision for public participation and OSM's oversight rule which combined with the State rule should satisfy condition (c). The revised Federal regulations published in 48 FR 40159 (September 2, 1983) provide at 30 CFR 816 and 817.116(a)(1) that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. Although the revised Federal rule provides greater flexibility to the regulatory authority in the selection of standards for success and statistically valid sampling techniques, it is required that the standards and techniques be included in an approved regulatory program. Thus, inclusion in an approved program goes beyond the consultation provision of the State's provisions and requires the approval of the Director, OSM. Therefore, the Secretary finds that Colorado Rule 4.15.7(d)(ii) is still less effective than 30 CFR 816 and 817.116(a)(1) and further does not satisfy condition (c) of his approval of the Colorado program.

5. As discussed in Finding 4(c)(iii) of the December 15, 1980 **Federal Register** notice, the Secretary found the Colorado regulations at 4.15.7(2)(d)(vi) to be inconsistent with the Federal rules at 30 CFR 816.116(d) and 817.116(d), published March 13, 1979, which established specific standards for ground cover and tree seedling survival rates which were specific to permit areas of 40 acres or less in size. Further, these standards were applicable only in locations with an average annual rainfall of more than 26 inches. The Colorado provision provided that the State could approve the use by the operator of unspecified standards set by the State "based on local environmental conditions and available data for similar sites" for both surface and underground mines that would affect 40 acres or less without regard for average annual rainfall. To satisfy the condition, Colorado revised its program at SR 4.15.7(2)(d)(vi) which would be applicable to mines that affect 40 acres or less without regard to annual rainfall and would provide that the Division consult with OSM in establishing these standards for small mines.

The State's explanation of the revised regulation at SR 4.15.7(2)(d)(vi) focused on the fact that the revegatation requirements would apply to all mines under 40 acres regardless of annual precipitation, making small mines subject to revegetation success standards as stringent as mines affecting more than 40 acres. Under the Colorado progrm a success standard is developed for each mine following the parameters set forth in section 4.15.7 of the State regulations. The revised Federal regulations published in 48 FR 40159 (September 2, 1983) provides at 30 CFR 816.116(a)(1) and 817.116(a)(1) that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in the approved program. Although the revised Federal rule provides greater flexibility to the regulatory authority in the selection of standards for evaluating success of revegetation and techniques for developing statistically valid samples, it also requires that the standards and techniques be included in an approved regulatory program. Thus, inclusion in an approved program goes beyond the consultation provision of the State's provision as well as requiring the approval of the Director of OSM.

Therefore, the Secretary finds that SR 4.15.7(2)(d)(vi) is still less effective than 30 CFR 816.116(a)(1) and 817.116(a)(1) and further does not satisfy condition (d) of his approval of the Colorado program.

6. As discussed in Finding 4(d)(xv) of the December 15, 1980 **Federal Register** notice, the Secretary found that the Colorado program failed to clearly provide that no holder of a valid permit could continue to mine after the term of his original permit expires if the State has determined that the permit should not be renewed. Section 506(b)(3) of SMCRA and 30 CFR 771.21(b)(2) specify that applications for permit renewals shall be submitted to the regulatory authority at least 120 days prior to expiration of the original, valid permit. Section 34–33–109(7)(f) of the Colorado statute requires the submission of an application for renewal at least 180 days prior to permit expiration. In addition, the Colorado statute expressly authorizes the holder of a valid permit to continue surface mining operations under the terms of that permit until a "final administrative decision on renewal is rendered."

The Secretary conditioned his approval of the State's regulatory program on Colorado amending its program to provide that no holder of a valid permit could continue to mine after the term of his permit expires if the State regulatory authority has determined that the permit should not be renewed. Colorado originally proposed to satisfy this condition by amending its statute to require that applications for permit renewals be filed with the State regulatory authority at least one year prior to the original expiration date.

The State now takes the position that amendments to its statute are unnecessary because the result required by condition (p) will be accomplished by the provisions of its approved regulatory program. Colorado states that statutory deadlines for processing permit renewal applications assure an initial administrative decision on renewal within 120 days of filing or, for good cause shown, within 180 days of filing. The State also contends that implementation of the enforcement and bonding provisions of its program ensures that operations continuing beyond the permit expiration date will be conducted in accordance with SMCRA's requirements until a final administrative decision is rendered on renewal.

A conflict between Colorado's statute and the Federal regulations occurs in those instances where the State regulatory authority has found that a permit should not be renewed and the operator petitions for review. The Colorado statute allows an operator to continue mining under the terms of a valid permit even if the original term expires during an appeal on his permit renewal application. The revised Federal regulations at 30 CFR 775.11(b)(2) (48 FR 44397, September 8, 1983) have been amended to allow for the continuation of mining under an existing permit if the regulatory authority has granted temporary relief, pending final determination of the administrative proceedings and if: (1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief; (2) the person requesting that relief shows that there is a substantial likelihood that he or she will prevail on the merits of the final determination; and (3) the relief sought will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air, or water resources.

The fact that a statutory deadline exists under the State's law does not assure that the State regulatory authority will render an initial decision on an application for permit renewal within 120 days of filing or even within 180 days of filing for good cause shown. If the State regulatory authority meets the statutory deadline when an operator contests an initial decision of nonrenewal, the process of administrative appeal may extend well beyond 180 days after the date on which his/her application was filed. For these reasons, Colorado's response that the State regulatory authority "normally" must meet the statutory deadline for initial decisions on permit renewal applications does not always lead one to the conclusion that the provisions of the approved program will accomplish the result required by condition (p). Therefore, the Secretary finds that the State provisions are still less effective than the requirements of the revised Federal regulations, 30 CFR 775.11(b)(2), and the State's explanation does not satisfy condition (p) of his approval of the Colorado program.

7. As discussed in Finding 4(h)(v) of the December 15, 1980 **Federal Register** notice, the Secretary found the Colorado statute at CRS 34–33–135(2) (a) and (b) to be inconsistent with section 520(b)(2) of SMCRA, which provides an exception to the requirement of 60 days prior notice contained in section 520(b)(1) and permits the commencement of a citizen's suit to compel compliance with SMCRA immediately after written notice is provided to the regulatory authority upon a showing that the violation or order complained of constitutes an "imminent threat" to the plaintiff's health or safety or would "immediately affect a legal interest of the plaintiff." Sections 34–33–135(2) (a) and (b) of the Colorado statute require a showing of "irreparable injury" by the plaintiff as a condition precedent to immediate commencement of a citizen's suit without 60 days prior written notice to the State.

Colorado has not amended its statute to conform to section 520(b)(2) of SMCRA on the theory that existing provisions for expedited relief in the State program achieve the same result required by condition (ee). Colorado maintains that the State's standard accurately reflects the normal criterion for expedited relief under the rules of civil procedure. Although the State concedes that "irreparable injury" obliges the plaintiff to satisfy a "slightly higher" burden under State law than under the standard provided by Federal law, Colorado contends that differences between the two statutes are so minor as to make their actual effect negligible.

For two reasons, the Secretary finds the State's explanation is insufficient and its provision inconsistent with section 520(a)(2). First, there is a discrepancy in time between an interest

which is irreparably damaged and one which is immediately affected. A person could have a legal interest which is immediately affected, but not irreparably damaged. In such a situation in Colorado, a person would not be able to bring suit within 60 days after furnishing notice to the regulatory authority because his interest, although affected immediately, would not be irreparably damaged. Because he was not irreparably damaged, that person could not obtain temporary relief in a Colorado State court, but possibly could get expedited consideration of the case. Yet such consideration could only come 60 days after giving notice. Second, there is no support for the State's assertion that there will be only a few instances when a person is seeking judicial review of the agency's action involving a mandatory duty under the State's statute. In order for a person seeking such judicial review to obtain temporary relief, he would have to meet the irreparable injury test which the State has added to its counterpart to section 520(a)(2) and the standards of its counterpart to section 526(c). Thus, such an individual has an extra standard to meet. Judicial review of the agency's failure to perform a mandatory duty could occur every time a surface coal mining operation came within 100 feet of a public road or cemetery or within 300 feet of an occupied dwelling. *See* SMCRA section 522(e) (4) and (5). On its face, it seems that more than a few such instances would arise.

Therefore, the Secretary finds that the Colorado provisions are still inconsistent with SMCRA and the State's explanation does not satisfy condition (ee) of his approval of the Colorado program.

8. As discussed in Finding 4(i)(v) of the December 15, 1980 **Federal Register** notice, the Secretary found that CRS 34–48–102 allowed a priority of right exception to the restriction on mining under any building or other impoundments without securing the owner against damages which is inconsistent with section 516(c) of SMCRA.

Section 516(c) of SMCRA requires the regulatory authority to suspend underground coal mining under urbanized areas, cities, towns, and communities adjacent to industrial or commercial buildings, major impoundments, or permanent streams if it finds imminent danger to inhabitants of those areas.

In its submission of July 25, 1980, Colorado provided an Attorney General's opinion which characterized this provision as an exception to surface owner protection. No such exception appears in SMCRA. The Attorney General's opinion states that the "priority of right" language merely recognizes the principle of *Pennsylvania Coal Co.* v. *Mahon*, 260 U.S. 393, 67 L.Ed. 322.43 S. Ct. 158 (1922). The opinion goes on to state that the fact that this principle is not explicitly recognized in section 516(c) of SMCRA does not render it nugatory.

The State's explanation is focused on the authority of the regulatory authority to suspend underground mining operations which pose a threat to surface structures. The authority under section 516(c) to suspend operations takes procedence over any property rights to not provide surface support. However, the priority of right provision in CRS 34–48–02 also pertains to the liability of the underground operator for surface damage. The revised Federal subsidence rule, 30 CFR 817.121(c), requires the operator to restore land damaged as the result of subsidence, and defers to State law on the question of liability for damage to structures. However, the priority of right provision in Colorado State law would exempt the operator from restoration of damaged land. The State's explanation addresses issues of protection and prevention but does not deal with the question of liability once damage as a result of subsidence occurs. The State may not be able to suspend mining operations once subsidence occurs, and it would also not be able to require an operator to repair damaged land if an operator has the priority of right. Therefore, the Secretary finds that the State provision is less effective than 30 CFR 817.121(c) and inconsistent with section 516(c) of SMCRA. Thus, the State has not satisfied condition (oo) of the Secretary's approval of the State program.

9. As discussed in Finding 4(f)(vii) of the December 15, 1980 **Federal Register** notice, the Secretary found the Colorado regulations at 5.02.2(4) to be inconsistent with the Federal rules of 30 CFR 840.11(d)(3) which required that inspections by the State shall include the prompt filing of inspection reports "adequate to enforce the requirements of and to carry out the terms and purposes of the State program, SMCRA, 30 CFR Ch. VII, the exploration approval and the permit." Colorado Rule 5.02.2(4) provides only that inspections include the filing of inspection reports and that inspection forms be approved by the Board; it does not address the adequacy of the inspection form. The Secretary conditioned his approval on Colorado promulgating a regulation to implement 30 CFR 840.11(d)(3) or otherwise amend its program to accomplish the same result.

The revised Federal regulations published in the August 16, 1982 **Federal Register** (47 FR 35620) provide at 30 CFR 840.11(e)(3) that State inspections shall include the prompt filing of inspection reports adequate to enforce the requirements of the approved State program. The State chose not to revise its regulations at 5.02.2(4) but rather attempted to satisfy the program condition by submitting to OSM a copy of the Colorado Mined Land Reclamation Division Inspection Report. An OSM evaluation of the inspection report form revealed the potential for utilization of the inspection report as a warning notice. The review of actual forms use by MLRD inspectors has confirmed the fact that the inspection form has been used to provide written documentation of warnings being given to mine operators rather than Notices of Violation being written. This practice is in clear violation of the approved Colorado program. Therefore, the Secretary finds that Colorado Rule 5.02.2(4) is still less effective than 30 CFR 840.11(e)(3) and further that Colorado's inspection report inappropriately documents the use by the State of a formal warning system. Thus, the State has not satisfied condition (ss) of the Secretary's approval of the State program.

Other Amendments Submitted by the State

In the December 16, 1982 **Federal Register** notice, the Secretary deferred action on revisions unrelated to conditions involving the Colorado rules at 2.07.6(3) and 4.05.2(7). In addition, the Secretary had not completed his review of Colorado SB 370 concerning repeal of State statutory or regulation provisions after a Federal counterpart has been revealed.

Therefore, set forth below, pursuant to 30 CFR 732.15 and 732.17, are the Secretary's findings concerning the above State program modifications.

1. Colorado proposes to delete Colorado Rule 2.07.6(3) which establishes permit approval or denial criteria for existing structures no less effective than 30 CFR 786.21. Initially, OSM was concerned that if the rule was deleted, the State would not have the authority to disapprove permit applications which did not document compliance with applicable standards for existing structures. However, in the February 9, 1983 meeting with OSM, Colorado explained that by deleting the rule, the program would require immediate compliance with all program

requirements. With this explanation, the Secretary finds deletion of Colorado Rule 2.07.6(3) to be no less effective than 30 CFR 786.21.

2. Colorado proposes to amend Colorado Rule 4.05.2(7) to require that, "[d]ischarges of water from areas disturbed by surface coal mining and reclamation operations shall be made in compliance with applicable Federal and State water quality standards . . . ." Colorado proposes to eliminate the requirement that the discharges for disturbed areas meet, at a minimum, the effluent limitations promulgated by U.S. EPA under 40 CFR Part 434. Initially, OSM was concerned about this amendment because it appeared the Colorado regulations did not identify specific effluent limitations for discharges from disturbed areas. However, in the February 9, 1983 meeting with OSM, Colorado cited Colorado Rule 4.05.1(3) which states that in no case shall Federal and State water quality statutes, regulations, standards or effluent limitations be violated. Therefore, the Secretary finds the Colorado regulations no less effective than the Federal regulations.

3. Colorado proposes to amend its statute at section 34–33–108 with S.B. 370 which provides for the repeal of certain State regulations if and when certain Federal law, rules, or regulations are repealed, deleted, or withdrawn. OSM was concerned whether every amendment of a Federal regulation under SMCRA triggered S.B. 370. OSM also was concerned that the proposed amendment conflicted with OSM requirements, that all modifications to the approved State program do not become effective until "approved by the Secretary". The State, on August 2, 1983, submitted to OSM an opinion from the Colorado Attorney General's office addressing OSM's concerns. The opinion clarified the MLRD's position that S.B. 370 only applies when Federal rules or laws are repealed, deleted or withdrawn. It does not apply where an individual Federal rule or scattered rules are incidentally repealed as part of a more comprehensive revision, if the substance of the deleted provisions survives in the new regulations. The Colorado Attorney General's Office has stated that S.B. 370 is triggered only by a Federal rulemaking proceeding that completely abrogates either a single rule or set of rules with no promulgation of a replacement rule or rules on the same subject. Therefore, the Secretary finds that the language of S.B. 370 as it amends CRS 34–33–108 is in accordance with SMCRA and no less effective than the Federal regulations.

Public Comments

The Environmental Policy Institute (EPI) commented that Colorado had not satisfied conditions (c), (d), (p), (ee), (oo) and (ss). For the reasons stated in his findings, the Secretary agrees that the State has not satisfied these conditions.

EPI commented that Colorado had not complied with condition (1) because the State noted that it lacked the statutory authority to authorize right of entry by representatives of the Secretary. The Secretary finds that the condition has been satisfied. See Finding 1 of the Secretary's findings for the Secretary's decision to remove this condition.

EPI commented that Colorado had not complied with condition (r) because the State's amended statute limits inspections to "times of operation at the mine" unless the operator is mining without a permit or believed to be causing significant environmental harm. The Secretary finds that the condition has been satisfied. See Finding 2 for the Secretary's decision to remove the condition.

EPI commented that Colorado had not complied with condition (bb)(3) because that State had not removed language from SR 3.02.4(2)(b)(v)(C) and (2)(d)(vi)(C) allowing amendments to permit areas rather than cessation orders for unbonded areas. The Secretary finds that the condition has been satisfied. See Finding 3 of the Secretary's findings for the Secretary's decision to remove the condition.

EPI commented that Colorado's proposed amendment (CRS 34–33–108 and SR 1.13) which provides for the automatic repeal of State regulations if and when provisions of the Federal law or rules are withdrawn is contrary to 30 CFR 732.17(g) which provides that changes to State law and regulations shall not take effect until approved as a State program amendment. The State clarified, in an attorney general's opinion, that the amendment only applies when provisions of Federal rules or law are repealed, deleted or withdrawn. The amendment does not apply where an individual Federal rule or scattered rules are incidentally repealed as part of a more comprehensive revision if the substance of the deleted provisions is retained in the new regulations. Thus, the amendment would be triggered only by a Federal rulemaking that completely abrogates either a single rule or set of rules with no promulgation of a replacement rule or rules on the same subject.

EPI commented that Colorado's proposed amendment to delete Colorado Rule 2.07.6(3) which establishes criteria for permit approval or denial for existing structures renders the State's rules less effective than the Federal rules. In the February 9, 1983 meeting between OSM and Colorado officials, the State clarified that by deleting the rule, the program requires that existing structures must comply with all State program requirements. Based on this explanation, the Secretary finds that the deletion of SR 2.07.6(3) is no less effective than 30 CFR 786.21.

Summary of Secretary's Decision

Based on his findings, the Secretary is removing conditions (l), (r) and (bb)(3) of his approval of the Colorado program. In addition, the Secretary is approving the three amendments submitted by Colorado which are unrelated to conditions of approval. These amendments are the deletion of SR 2.07.6(3), revision of SR 4.05.2(7), and revisions of CRS 34–33–108 and SR 1.13, respectively.

For those conditions which the Secretary finds not to be satisfied, he is establishing revised dates pursuant to the State's legislative and administrative procedures for the State to submit amendments to satisfy the remaining conditions.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule 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 rule will not impose any new requirement; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *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. 3507.

List of Subjects in 30 CFR Part 906

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

Dated: April 23, 1984.

Leona A. Power,

Acting Assistant Secretary for Land and Minerals Management.

Authority: Sec. 503, Pub. L. 95–87, 30 U.S.C. 1253.

PART 906—COLORADO

§ 906.11 Conditions of State regulatory program approval. [Amended]

1. 30 CFR 906.11 is amended as follows:

a. By removing and reserving paragraphs (l), (r), and (bb)(3).

b. By removing the dates "June 1, 1982" and "December 1, 1982", each time they appear with the exception of paragraph (mm) and inserting in their place the date "September 30, 1984".

2. 30 CFR 906.15 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) as follows:

§ 906.15 Approval of amendments to State regulatory programs.

* * * * *

(b) The following amendments are approved effective May 1, 1984: Revisions submitted on January 11, 1982, February 25, 1982, May 26, 1983 and August 2, 1983, to the Colorado statute at 34–33–108 and to the Colorado Rules at 1.13, 2.07.6(3) and 4.05.2(7).

[FR Doc. 84–11696 filed 4–30–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

Approval of Amendments and Removal of Certain Conditions on the Approval of the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments and the removal of certain conditions of the Secretary of the Interior's approval of the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On February 8, 1984, OSM received a set of proposed regulations from the Ohio Division of Reclamation intended to satisfy conditions (f)(7), (k)(3), (k)(4), and (k)(5) of the Secretary's approval of the Ohio program concerning: (1) Revegetation responsibility and (2) administrative review procedures.

After providing opportunity for public review and comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to the Ohio program satisfy the conditions of approval and meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary is removing the conditions and approving the regulatory amendments. The Federal rules at 30 CFR Part 935 which codify decisions concerning the Ohio program are being amended to implement these actions.

EFFECTIVE DATE: May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions –(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j) and (k)(1)–(k)(5). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.** In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1) and (k)(1) by August 8, 1983; deficiency (e) by September 16, 1982; and the remaining deficiencies by February 8, 1983.

On January 6, 1983, Ohio submitted materials to OSM intended to, among other things, satisfy conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k)(1) and (k)(2). On May 24, 1983, the Secretary approved certain of the amendments and removed conditions (b), (d), (f)(1) through (f)(6), (f)(8) through (f)(10), (g) (h)(2), (h)(3), (i), (j), (k)(1) and (k)(2). The Secretary established a deadline of August 8, 1983, for the State to meet conditions (a), (c) and (h)(1), and extended to that same date, the deadline for the State to meet conditions (f)(7), (k)(3), (k)(4), and (k)(5). Additionally, the Secretary imposed two new conditions (l) and (m) which also carried a deadline of August 8, 1983.

On July 26, 1983, the Chief of the Ohio Division of Reclamation wrote to OSM requesting that Ohio be granted an extension of time to meet conditions (c), (f)(7), (h)(1), (k)(3), (k)(4), (k)(5) and (m).

On October 11, 1983, after providing public notice and an opportunity to comment, OSM announced the Secretary's decision to extend the deadline for Ohio to satisfy these condtions. The Secretary extended the deadline for conditions (f)(7), (h)(1), (k)(3), (k)(4) and (k)(5) until February 8, 1984, and the deadline for conditions (c) and (m) until August 8, 1984.

Briefly, the conditions under consideration in this rulemaking are:

1. Condition (f)(7) stipulates that Ohio must amend its rule 1501:13–9–15(E)(5) by deleting the word "substantially" to establish the beginning of the period for extended liability consistent with 30 CFR 816.116.

2. Condition (k)(3) stipulates that Ohio must amend its administrative review provisions to provide for discovery against the Chief or the Division of Reclamation.

3. Condition (k)(4) stipulates that Ohio must promulgate regulations to allow for intervention in instances provided for in 43 CFR 4.1110(c)(i) and (ii).

4. Condition (k)(5) stipulates that Ohio must promulgate regulations establishing burden of proof provisions consistent with 43 CFR 4.1171 and 4.1193.

II. Submission of Revisions

By letter dated February 8, 1984, Ohio submitted proposed program amendments consisting of revised regulations to satisfy conditions (f)(7), (k)(3), (k)(4) and (k)(5) due February 8, 1984.

Specifically, Ohio has:

(1) Proposed changes to paragraph (E)(5) of rule 1501:13–9–15 to meet condition (f)(7); and

(2) Proposed to add new paragraphs (J), (K), and (L) to rule 1513–1–01 to meet conditions (k)(3), (k)(4) and (k)(5).

On February 28, 1984, OSM published a notice in the **Federal Register** announcing receipt of the amendments and requesting public comment on whether the proposed amendments are no less effective than the Secretary's regulations and whether the amendments satisfy the conditions of approval. (49 FR 7250) The public comment period ended March 29, 1984. A public hearing scheduled for March 26, 1984, was not held because no one expressed a desire to present testimony.

III. Secretary's Findings

The Secretary finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on February 8, 1984, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

1. *Condition (f)(7)*

The Secretary found that in the Ohio program conditionally approved on August 16, 1982, the Ohio regulations did not establish the beginning of the period for extended responsibility consistent with 30 CFR 816.116(b)(1) (Finding 13.12, 47 FR 34695). On May 24, 1983, the Secretary found that a January 6, 1983, Ohio amendment did not fully satisfy condition (f)(7), because the Ohio rule provided that the period would begin "at the last time of *substantially* augumented seeding; . . ."; whereas the Federal rule at 30 CFR 816.116(b)(1) provided that period begins after the last year of augumented seeding, fertilizing, irrigation or other work. Because Ohio did not define the word "substantially," the Secretary found that the condition was not fully satisfied. The Secretary amended condition (f)(7) to require the State to delete the word "substantially" from OAC 1501:13–9–15(E)(5). Section 816.116 was amended at 48 FR 40160 (Sept. 2, 1983), and the applicable requirement is now on 30 CFR 816.116(c)(1).

Ohio has amended its rule 1501:13–9–15(E)(5) to remove the word "substantially." The Secretary now finds that the amended Ohio rule is no less effective than 30 CFR 816.116(c)(1), and condition (f)(7) has been satisfied.

2. *Conditions (k)(3), (k)(4) and (k)(5)*

The Secretary found that in the Ohio program conditionally approved on August 16, 1982, the Ohio regulations on administrative review did not provide for: (1) Discovery against the Chief or the Division of Reclamation; (2) a right of intervention in instances provided for in 43 CFR 4.1110(c)(i) and (ii); and (3) burden of proof requirements consistent with 43 CFR 4.1171 and 4.1193. The Secretary now finds that Ohio has amended its rules at OAC 1513–1–01 by adding paragraphs (J), (K) and (L) to provide discovery, intervention, and burden of proof provisions consistent with 43 CFR Part 4, and conditions (k)(3), (k)(4) and (k)(5) have been satisfied.

IV. Public Comments

No public comments were received on the proposed program amendments. Acknowledgments were received from the following Federal agencies:

Department of Labor—Mine Safety and Health Administration.

Department of the Army—Office of the Chief of Engineers.

Department of Agriculture—Soil Conservation Service and Farmers Home Administration.

The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Secretary's Decision

The Secretary, based on the above findings, in approving the February 8, 1984 amendments to the Ohio program, and is removing conditions (f)(7), (k)(3), (k)(4), and (k)(5). Part 935 of 30 CFR Chapter VII is being amended to reflect the above actions.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule 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 rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *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. 3507.

List of Subjects in 30 CFR Part 935

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

Accordingly, 30 CFR Part 935 is amended as set forth herein.

Leona A. Power,

Acting Assistant Secretary for Land and Minerals Management.

PART 935—OHIO

§ 935.11 [Amended]

1. 30 CFR 935.11 is amended by removing and reserving paragraphs (f)(7), (k)(3), (k)(4), and (k)(5).

2. 30 CFR 935.15 is amended by adding a new paragraph (h) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(h) The following amendments submtted to OSM on February 8, 1984, are approved effective upon promulgation of the rules by the State, provided the rules adopted are identical to the rules as submitted to and reviewed by OSM: Ohio Administrative Code Sections 1501:13–9–15(E)(5), 1513–101 (J), (K), and (L).

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

[FR Doc. 84–11662 Filed 4–30–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–8–FRL 2573–2]

Approval and Promulgation of State Implementation Plans; Revisions to the Montana Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving a revision to the Montana State Implementation Plan. This revision, originally submitted by the State on June 7, 1982, and augmented by additional information submitted October 4, 1983, modifies the sulfur dioxide (SO_2) plan for the East Helena nonattainment area.

DATES: This action will be effective on July 2, 1984.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Montana Office, Federal Office Building, 301 S. Park, Helena, MT 59626

Environmental Protection Agency, Region VIII, Air Programs Branch,

1860 Lincoln Street, Denver Colorado 80295
Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M. Street, SW., Washington, D.C. 20460
The Office of the Federal Register, 110 L. Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Doug Skie, Chief, Air, Pesticides and Hazardous Wastes, Environmental Protection Agency, Montana Office, Federal Office Building, 301 S. Park, Helena, MT 59626 (406) 449-5414.

SUPPLEMENTARY INFORMATION: The ASARCO lead smelter is the only significant source of sulfur dioxide (SO_2) impacting the East Helena nonattainment area.

On May 16, 1975, the Board of Health and Environmental Sciences of the State of Montana issued a "Determination and Order" limiting the SO_2 emissions from the ASARCO smelter to 80 tons per day and 20 tons per six hours. This action was approved by EPA as part of the Montana SIP on September 19, 1975 (40 FR 43216). As one of the measures undertaken to comply with this requirement, ASARCO constructed a double contact sulfuric acid plant which was completed in July 1977.

As part of the maintenance procedures for the acid plant, the catalyst beds must be screened to remove accumulated particulate matter by a process requiring shutdown of the acid plant for a period of five to ten days. The time periods between maintenance for catalyst screening varies from a few months to 16 months or more and is not predictable. During screening the SO_2 which is normally transformed into sulfuric acid and recovered as a product, instead bypasses the acid plant and is emitted to the atmosphere. This can, and does, cause the ASARCO plant to exceed the SO_2 emission limits of 80 tons per day and 20 tons per six hours.

The existing SIP contains no mechanism to accommodate catalyst screening. Therefore, the EPA issued a Notice of Violation (NOV) to ASARCO on August 20, 1980 for bypassing their acid plant during catalyst screening. An Administrative Order was issued by EPA on March 18, 1981. After the NOV conference, ASARCO presented details on the operation of their East Helena Smelter which indicated that the Company does not shut its smelter down annually for maintenance. Instead, the main part of the operation, the sintering plant, is shut down for maintenance for one 8-hour shift each week. Since this shutdown does not provide adequate time (five to ten days are needed for catalyst screening) the screening must be done at another time, and plant-wide shutdowns are infrequent. The last one took place in 1979, and was caused by an inadequate supply of raw materials.

In order to permit ASARCO to carry out the required maintenance, the Board of Health and Environmental Sciences amended the "Determination and Order" which was originally issued on May 16, 1975. The amended order, which is the subject of this notice, will allow ASARCO to screen catalyst and simultaneously continue to operate the remainder of the smelter, provided that the resulting SO_2 emissions do not cause a violation of the corresponding National Ambient Air Quality Standards (NAAQS). The order requires ASARCO to obtain approval from the State of Montana prior to the bypass. Criteria and procedures to be used by the Montana Air Quality Bureau (AQB) in making its decision are also included in the Order, and are summarized as follows: (1) ASARCO is to request permission from the AQB to screen catalyst at least two weeks in advance of the proposed shutdown of the acid plant, or if that is impossible, such notice as is reasonable under the circumstances shall be provided. (2) In conjunction with its request ASARCO is to submit the following information: (a) Expected length of shutdown; (b) an estimate of SO_2 emissions during shutdown; (c) measures to be taken by ASARCO to minimize emissions; and (d) reasons why it is impossible or impractical to shut down the entire smelter during the maintenance period. (3) No later than 48 hours prior to acid plant shutdown, the AQB shall make a decision to permit acid plant shutdown or to require shutdown of the entire smelter for catalyst screening. (4) Unless otherwise specified by the AQB, acid plant shutdown is not to exceed ten days. (5) ASARCO is required to meet National Ambient Air Quality Standards during shutdown. (6) Catalyst failure caused in whole or in part by poor design, poor maintenance, careless operation or any other preventable upset condition or preventable equipment breakdown shall be grounds for denial.

The order also requires ASARCO to submit to the State, not later than 20 days after maintenance is completed, a report describing the maintenance activities, the duration of the acid plant shutdown, the ambient concentrations of sulfur dioxide recorded during the shutdown, and any other pertinent information.

The Montana SIP revision specifies that whenever it is necessary to bypass the acid plant for more than four hours for maintenance, ASARCO shall request permission to exceed its SIP limits. EPA does not interpret this language as allowing an automatic exemption for exceedances during any scheduled maintenance lasting less than four hours

In general any exceedance of a SIP emission limit is a violation. Recognizing that some types of exceedances are unavoidable, EPA has adopted an enforcement policy which permits the exercise of enforcement discretion with respect to exceedances in certain narrow circumstances. Memoranda from former Assistant Adminstrator Kathleen Bennett to the Regional Administrators, dated September 28, 1982 and February 15, 1983 describe the policy. That policy permits the exercise of enforcement discretion with respect to excess emission during scheduled maintenance on pollution control equipment if a source can demonstrate that such emissions could not have been avoided through better scheduling for maintenance or through better operation and maintenance practices. EPA believes that the criteria and procedures in this SIP revision for granting an exemption provide for a reasonable approach to the catalyst maintenance problem and are consistent with EPA's policy. Accordingly, EPA is today approving those criteria and procedures. However, EPA is not approving in advance any determination by the Montana Board of Health and Environmental Sciences that those criteria and procedures have been satisfied in any specific instance. (Thus, this action does not constitute an approval of the finding of fact in paragraph 13 of the order submitted by the State which states that excess emissions during scheduled maintenance are not properly deemed to constitute a violation of the SIP). Rather, EPA retains its authority to independently consider and determine whether to take enforcement action on the basis of those criteria and procedures.

In making its determination, EPA will consider such factors as whether the ASARCO smelter has taken all measures to conduct its catalyst screening as expeditiously as possible, including the use of offshift and overtime labor, whether better scheduling of maintenance could have avoided excess emissions, and whether production losses which would result from a shut down of processing equipment during maintenance of pollution control equipment could have been made up when the smelter would not otherwise be operating at maximum

capacity. EPA will also consider any other factors which are relevant to determining whether it was impossible or impractical to shut down the smelter operation during scheduled maintenance.

The public is advised that this action will be effective 60 days from the date of this notice. However, if we receive written notice within 30 days of this notice that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 2, 1984. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, and Hydrocarbons, Intergovernmental relations.

This rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

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

Dated: April 19, 1984.

William D. Ruckelshaus,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart BB—Montana

(1) In Section 52.1370 paragraph (c)(16) is added as follows:

§ 52.1370 Identification of plan

* * * * *

(c) * * *

(16) A revision to the East Helena nonattainment plan for sulfur dioxide (SO_2) was submitted on June 7, 1982, and supplemental information was submitted October 4, 1983.

[FR Doc. 84-11084 Filed 4-30-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL 2573-1]

Approval and Promulgation of Implementation Plan: Louisiana Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: As required by section 110(a) of the Clean Air Act and the October 5, 1978 (43 FR 46246), promulgation of national ambient air quality standards (NAAQS) for lead, the State of Louisiana has submitted a State Implementation Plan (SIP) for lead. This action approves the part of the lead SIP which provides for attainment and maintenance of the lead NAAQS for the Baton Rouge area of the State. The rest of the Louisiana lead SIP was previously approved by EPA In a Federal Register notice published on July 28, 1982 (47 FR 32529).

EFFECTIVE DATES: Effective on May 30, 1984.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270

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

The Office of the Federal Register, Rm. 8401, 1100 L Street, N.W., Washington, D.C.

State of Louisiana, Department of Environmental Quality, Air Quality Division, P.O. Box 44066, Baton Rouge, LA. 70804

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270 (214) 767-9859.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (μg lead/m^3) averaged over a calendar quarter. As required by Section 110 of the Clean Air Act (CAA), and the October 5, 1978 promulgation of the NAAQS for lead, all States must submit a SIP which will provide attainment and maintenance of the lead NAAQS. Louisiana has developed and submitted such as SIP.

The general requirements for a SIP are outlined in Section 110 of the Clean Air Act and EPA regulations 40 CFR 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. Air monitoring requirements for lead are found in 40 CFR Part 58. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each area exceeding the NAAQS, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for ensuring maintenance of the NAAQS. EPA has evaluated the Louisiana lead SIP by comparing it to the requirements for an approval SIP, as set forth in the above mentioned regulations.

On July 27, 1979, the Governor of Louisiana submitted to EPA a lead SIP for the State of Louisiana. A public hearing was held concerning the State's lead SIP on July 24, 1979. Additional information concerning the lead SIP was submitted to EPA in letters dated January 6, 1982, April 1, 1982, May 4, 1982, January 4, 1983, and September 15, 1983. On July 28, 1982 (47 FR 32529), EPA approved the Louisiana lead SIP except for the part of the SIP concerning the Baton Rouge area. As explained in the notice and in EPA's March 1982 Evaluation Report, additional information was requested from the State to correct discrepancies that existed between EPA and State modeling for Ethyl Corporation in Baton Rouge, Louisiana. Therefore, EPA delayed action on the Baton Rouge area until the State could submit additional information for the Ethyl facility, which the State submitted to EPA in letters dated January 4, 1983, September 15, 1983, September 30, 1983, and October 31, 1983.

On November 15, 1983, (48 FR 51944), EPA proposal approval of the Louisiana lead control plan for the Baton Rouge area. Discussion of the control plan and EPA's review of the control plan were explained in the proposed rulemaking, and in EPA's Evaluation Report of September 1983, which was made available for public review at the time of the proposed rulemaking. No public comments were received on EPA's proposed approval action of the State's lead control plan for the Baton Rouge area. This notice explains EPA's final approval action on the State's lead control plan for Baton Rouge, and removes a previous "no action" taken

by EPA on the Baton Rouge part of Louisiana's lead SIP.

II. The Baton Rouge Lead Control Plan

As explained in the November 15, 1983 proposed rulemaking, EPA requested Louisiana to do additional modeling of the Ethyl corporations; lead gasoline additive manufacturing plant in Baton Rouge, to determine that the lead NAAQS was being attained around the Ethyl facility, and would continue to be maintained. The State did the modeling using the model, Industrial Source Complex-Short Term version, and submitted the modeling to the regional Office in a letter dated September 15, 1983. The State also submitted to EPA in the September 1983 letter, the State's lead control plan for the Ethyl facility which included lead emission limitations for each of the major stacks at the facility, a requirement that Ethyl must raise the height of the six lead reverbatory furnace stacks to a height of 179 feet by September 1, 1986, and that the facility could operate no more than five reverbatory furnaces at any one time. The above requirements on the Ethyl facility were included in a State Administrative Order (A.O.) for which a public hearing was held on October 20, 1983, and which was signed into effect by the Assistant Secretary of the Louisiana Office of Environmental Affairs on October 31, 1983. The State submitted the final A.O. to the Ethyl facility and to EPA by letter dated October 31, 1983. The final A.O. and lead control plan for the Ethyl facility is the same as the lead control plan on which EPA based its proposed approval action in November 1983. The Ethyl facility is proceeding to meet the deadlines listed in the final A.O. and the State's modeling demonstrates full attainment, and continued maintenance, of the lead NAAQS with the A.O.'s requirements in effect for the Ethyl facility. Therefore, EPA finds that the Louisiana lead control plan for the Baton Rouge area is adequate for the attainment and maintenance of the lead NAAQS around the Ethyl facility. As explained in the proposed rulemaking, there are not other significant lead emitting sources in the Baton Rouge area except mobile sources. The State has already demonstrated in its general lead SIP, which EPA approved on July 28, 1982, that the Federal lead phasedown-in-gas program will protect the lead NAAQS from being exceeded throughout Baton Rouge due to mobile source emissions of lead.

The State is operating two lead State and Local Air Monitoring Stations (SLAMS) in the Baton Rouge area. Both are near the Ethyl facility, one site is to the east, in a neighborhood area with high motor vehicle travel, and the other site is to the west of the facility in an area indicative of the area around the Ethyl facility. Both SLAMs sites were reviewed and approved by the Regional Office in 1982, and both sites have been operating for the last two years. Since Baton Rouge is below the size cutoff (cities with population greater than 500,000), no lead National Air Monitoring Stations (NAMS) are required to be located in Baton Rouge.

On October 13, 1983, the United States Court of Appeals for the District of Columbia Circuit remanded portions of EPA's stack height regulations (40 CFR 51.1, 51.12 and 51.18 (1983)) to the Agency for reconsideration. *Sierra Club v. EPA*, 719 F.2d 436. Recently, a group of affected industries filed a petition for a writ of certiorari with the United States Supreme Court, where it is still pending. The stack height in this SIP action, however, is below the *de minimus* height of 65 meters. The *de minimus* provision of EPA's stack height regulations (40 CFR 51.1(ii)(1)(1983)) was not challenged in the Court of Appeals. Accordingly, in EPA's opinion the raising of the existing stacks at Ethyl Corporation's facility to a height of 179 feet (approximately 34 feet below the *de minimus* height specified in EPA's regulations) is approvable. If, however, the *de minimus* provision of EPA's regulations is modified as a result of the further judicial process, it may be necessary to review today's SIP action consistent with any change in EPA's regulations.

EPA's Action

EPA has evaluated the Baton Rouge part of the Louisiana lead SIP and has determined that it meets the requirements of Section 110(a) of the Clean Air Act and 40 CFR Part 51, Subparts B and E. EPA believes that the Baton Rouge part of the SIP is adequate to attain and maintain the lead NAAQS's throughout Baton Rouge, with the implementation of the State's A.O. for the Ethyl facility.

Today's action is EPA's final approval of the Baton Rouge part of the Louisiana lead SIP, therefore the Louisiana lead SIP is fully approved by EPA.

EPA finds that the Louisiana SIP that has been approved for other NAAQS's contains regulations that satisfy general regulations not specifically mentioned in the lead SIP, and these general regulations are incorporated into the State's lead SIP.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 2, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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

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

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

This notice of final rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxides, Lead. Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: April 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 Part 52, Subpart T—Louisiana of the Code of Federal Regulations is amended to include the following:

1. Section 52.970 is amended by revising (c)(32), and by adding (c)(39) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(32) The Louisiana State Implementation Plan for lead and Regulations for the Control of Air Pollution from lead, 10.0—10.3 and 19A.0, were submitted to EPA on July 27, 1979, by the Governor of Louisiana as adopted by the Louisiana Air Control Commission on July 24, 1979. Letters of Clarification dated January 6, 1982, April 1, 1982 and May 4, 1982 also were submitted. No action is taken on the Baton Rouge area.

* * * * *

(39) The Louisiana State Implementation Plan for lead for the Baton Rouge area was submitted on July 27, 1979, with letters of clarification and revisions dated January 4, 1983, September 15, 1983, September 30, 1983. The final lead control plan was submitted in a letter dated October 31,

1983, as adopted by the Louisiana Air Control Commission on October 20, 1983.

2. Section 52.979 is amended by revising footnote d. which follows the table:

§ 52.979 Attainment dates for National Standards.

* * * * *

d. September 1, 1986.

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[FR Doc. 84-11085 4-30-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 610

[AMS-FRL 2519-7]

Amendments to the Retrofit Device Evaluation Regulations To Include Fuel Additives and To Improve Administration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action is intended to eliminate the present confusion regarding the Agency's authority and capability to test fuel additives as part of the retrofit device evaluation program under the Motor Vehicle Information and Cost Savings Act (MVICSA), 15 U.S.C. 2011. It is also intended to promote more efficient administration of the retrofit device evaluation program. Specifically, this rule (1) establishes a new definition of "retrofit device" to explicitly include fuel additives, (2) establishes a new, more precise definition of a "manufacturer" of a retrofit device, (3) formally grants certain rights to manufacturers to participate in EPA's evaluation of their devices, and (4) establishes that EPA has appropriate test procedures and protocols for fuel additives.

EFFECTIVE DATE: This final rule will become effective on May 31, 1984.

ADDRESS: Availability of documents.—Copies of material relevant to this rulemaking are located in Public Docket No. A-82-01, at the U.S. Environmental Protection Agency, Central Docket Section (LE-131), Gallery 1, West Tower Lobby, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Test and Evaluation Branch, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone (313) 668-4299.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0419.

This action amends EPA's Fuel Economy Retrofit Device Regulation (40 CFR Part 610) by redefining "retrofit device" and "manufacturer" and granting manufacturers certain rights to participate in EPA's evaluation of their retrofit devices. It also clarifies EPA's capability and intention to use existing test procedures for fuel additives. EPA proposed these amendments to the regulations governing the retrofit device evaluation program in a Notice of Proposed Rulemaking, 44 FR 57742 (December 28, 1982).

I. Background

EPA proposed to redefine "retrofit device" by explicitly including fuel additives within the definition. As revised, the regulatory definition would be more consistent with that given in Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011. This would consequently help eliminate confusion among fuel additive manufacturers regarding EPA's authority to evaluate fuel additives under the retrofit device program.

A related issue which also needed clarification was whether the test procedures EPA has been using for retrofit devices (including fuel additives) were indeed appropriate for fuel additives. By means of the preamble to this final rule, EPA is confirming that its existing test procedures are appropriate and, therefore, that EPA will continue using them for fuel additives.

Overall, the final rule clarifies EPA's authority, capability (using established test procedures), and intention to evaluate fuel additives under the retrofit device program.

EPA proposed the new definition of "manufacturer" because (1) some device manufacturers had complained that contrary to the intent of the MVICSA, the existing definition allowed distributors and sellers to apply for an EPA evaluation of retrofit devices, and (2) EPA was receiving multiple applications for evaluation of the same device, thereby causing confusion and unnecessary paperwork. The new definition of "manufacturer" to exclude distributors and sellers will better serve the purpose of the MVICSA and will correct these problems.

In an effort to improve the evaluation program, EPA also proposed to afford manufacturers certain rights to participate in the evaluation of their devices. As a result of having these rights, EPA hopes that more manufacturers will participate in the Agency's testing of their devices from the outset and resolve differences in opinion regarding test designs early in the test program, thus improving the quality of the testing.

In addition to the proposed amendments, the NPRM also requested comments on these changes and specifically requested comments on whether the test procedures EPA has been using for electrical and mechanical retrofit devices (and fuel additives) are appropriate for fuel additives. The comment period closed on February 28, 1983. However, because two companies requested an extension of the comment period, EPA reopened it from June 1 to July 1, 1983.

II. Comments Received

In response to the NPRM, various companies and the U.S. Army submitted comments. The EPA staff has summarized and responded to the comments in a document called "Summary and Analysis of Comments" that is available through the Central Docket Section, Docket No. A-28-01 (see Availability of Documents, above). Comments were mixed, with some companies fully endorsing the proposed changes and others objecting to certain portions. The more significant comments received and the action EPA has taken as a result of them are as follows:

A. Definition of Retrofit Device

Ford Motor Company commented that EPA's proposed definition of "retrofit device" did not conform to the MVICSA definition because it contained the word "substance" and asked EPA to explain how a "substance" differs from a fuel additive. EPA included the term "substance" to cover additives other than liquid additives, e.g., tablets, powder, etc. EPA's intent is still to cover additives other than liquid additives. However, because the phrase "fuel additive" in the regulation is not limited by its own terms to liquids, EPA has concluded that the words "or substance" are unnecessary to the definition and has deleted them.

Ford also commented that the definition should specifically exclude oil and oil additives. EPA is not authorized under Section 511 of the MVICSA to evaluate oil or oil additives for fuel economy benefits. For this reason and also because of some confusion among manufacturers regarding EPA's authority to test oil and oil additives, EPA believes Ford's comment has merit in that it will help preclude future misunderstandings. Thus, EPA has revised the definition of "retrofit device" to be more explicit by specifically

excluding lubricants and lubricant additives.

Pennzoil Company suggested an alternative definition of "retrofit device" that did not alter the meaning of EPA's proposed definition but merely rearranged the wording. Because Pennzoil's proposed definition is more concise, EPA has adopted it in the final rule, but without the words "or substance."

While redefining "retrofit devices" makes clear EPA's authority and intent to test fuel additives under the retrofit device evaluation program created by the MVICSA, the testing under this program should be distinguished from that required for two programs under the Clean Air Act. First, procedures and protocols for determining the health effects of fuel additives are still being developed under Section 211(b)(2) of the Clean Air Act, 42 U.S.C. 7545(b)(2), and will be published in a later rulemaking. It should be emphasized that the fuel economy and emission testing of a fuel additive under the MVICSA would in no way fulfill any responsibility of the manufacturer to perform any health effects tests required by the regulations issued in the future under Section 211 of the Act.

Second, for purposes of waivers under section 211(f)(4) of the Clean Air Act, 42 U.S.C. 7545(f)(4), the testing performed under the retrofit device program does not automatically satisfy the requirement that fuel additives be tested over the "useful life" of a vehicle to determine their impact on emission control systems. However, relevant test data generated from such testing may be submitted in applications for such waivers.

Finally, EPA emphasizes that fuel additives evaluated under the retrofit device program are only those which are for aftermarket use and are introduced to the vehicle's fuel system by other than fuel dispenser pumps. It does not include those additives contained within the finished or fully blended fuels.

B. Definition of Manufacturer

Pennzoil Company commented that the definition of "manufacturer" should be revised to cover those situations where the first manufacturer has a fuel additive made by a second manufacturer to specifications prescribed by the first manufacturer. EPA agrees with Pennzoil Company and has accordingly revised the definition.

C. Manufacturer's Rights

Bell Laboratory, Incorporated, commented that the proposal for EPA to make a "reasonable effort" to contact manufacturers when it intends to test their device is not enough and that regulations should require that EPA give actual notice by certified mail.

In past evaluations, EPA has routinely notified manufacturers by letter each time it intended to test their products. In response to Bell's suggestion, the final regulation states that EPA will send a letter for purposes of notification. Although EPA intends to certify those letters which it expects may have difficulty reaching the manufacturer, it does not believe that this practice is necessary in all cases.

General Motors Corporation commented that EPA should not provide manufacturers the right to comment on test plans for their devices. Bell Laboratory and Lubrizol Corporation on the other hand, commented that the manufacturer's opportunity to comment on the test plan and other phases of the evaluation program was too limited. These comments, in addition to similar ones from other commenters, indicated that most companies are not aware of the full extent of participation that EPA has afforded manufacturers during device evaluation programs. EPA would like to make clear that it will continue to give prior notification of its intent to test the device, to provide an opportunity to attend the test sessions and to comment on the specific test plan, results, and conclusions reached by the Agency. Additionally, the manufacturer will continue to be provided with a draft copy of the final report and of the **Federal Register** Notice (which gives the summary and conclusions of the evaluation), and an opportunity to comment on them prior to release to the public. The manufacturer's opportunity to participate in the development of a test plan is provided not only to benefit the manufacturer, but also to help assure a technically sound test plan.

Although EPA will consider all comments from the manufacturer, it cannot assure that every proposal will be acted on. Some comments may not be appropriate for various reasons (e.g., technically unsound, too resource intensive, unauthorized by regulation, and redundant effort). The MVICSA places the responsibility of evaluating retrofit devices specifically on EPA. While EPA will consider suggestions from the manufacturer, EPA will not, as suggested by Bell Laboratory's comment, delegate this authority to an arbitrator whenever the manufacturer disagrees with EPA's evaluation program. Should EPA and the manufacturer not agree on some facet(s) of the evaluation program, the evaluation program will not be delayed. EPA will act with all due speed to develop an accurate and meaningful final evaluation report for that particular device, and publish its conclusions in the **Federal Register**.

D. Test Procedures/Protocols

The main issue posed by EPA's proposal to clarify that existing procedures for testing mechanical and electrical retrofit devices apply to fuel additives is whether those procedures are appropriate for determining fuel economy and emission benefits for fuel additives. The proposal specifically solicited comments on this issue. Most of the comments received addressed this issue and although some companies took exception to EPA using its existing test procedures for fuel additives, several other commenters fully supported EPA's proposal. Overall, the comments indicated that most companies were not familiar with the test procedures/protocols that EPA has followed in past evaluations of retrofit devices. This unfamiliarity is reflected in the majority of the comments received and appears to stem from the fact that the companies have never been involved in an EPA evaluation of a retrofit device. Taking into consideration all these comments, EPA has concluded that no sound reason was given against using the existing Federal Test Procedure (FTP) and Highway Fuel Economy Test (HFET) procedures for evaluating the fuel economy and emission benefits of fuel additives. For this reason, and also because some fuel additive manufacturers have expressed a desire to have their additives evaluated in the immediate future, EPA intends to use these procedures for fuel additives. Subsequent to this rulemaking, EPA will consider any new suggestion for alternative test methods and propose any revisions that appear to be appropriate.

In an effort to avoid any future misunderstanding, EPA would like to briefly outline the following features of its retrofit device evaluation program with respect to test procedures/protocols.

1. For purposes of retrofit device evaluations (including fuel additives), EPA has been using, and intends to continue using, the FTP and HFET procedures when possible for the following reasons:

(a) The cycles represent reasonable characterizations of city and highway driving patterns.

(b) They are well defined, standardized procedures used extensively by industry and government to evaluate a broad variety of factors influencing emissions and fuel economy.

(c) The technical community is familiar with the data generated with these procedures.

(d) Test-to-test variability of data is less than with other methods, e.g., track or road testing, because of better control of parameters which affect fuel economy (e.g., drivers' habits, road, traffic, and ambient conditions).

(e) These procedures, which were established in 44 FR 17946 (March 23, 1979) for the testing of retrofit devices (including fuel additives), are already in place and EPA has used them successfully on other devices as well as fuel additives.

2. The FTP and HFET procedures may be modified under the provisions of § 610.31(c) as needed in any given case (e.g., by testing with commercial pump fuel, hot-start testing) to test the claims of additive manufacturers, so long as the acquisition of sound data is not jeopardized. Under the existing rule, the test protocols may also be modified in a given case, as necessary, so that a technically correct evaluation of a particular fuel additive can be made. For example, EPA may allow the accumulation of mileage, with and without the additive, for purposes of evaluating break-in and durability. The actual miles accumulated would vary for each additive based upon the manufacturer's claims. Mileage accumulation up to 15,000 miles, which is currently allowed under § 610.33(c), should be adequate to evaluate all fuel additive claims.

Should EPA determine that a particular fuel additive cannot be satisfactorily tested using the FTP and HFET procedures, then other procedures may be used under § 610.31 of the regulations.

3. The test program must have a sufficient number of test vehicles so that statistically significant test data will be obtained. EPA realizes that for fuel additives which manufacturers claim cause only a one or two percent improvement in fuel economy, several vehicles will be required and the total test cost may be large. However, in such cases there is no acceptable way to avoid testing many vehicles and still generate meaningful data. EPA will try to minimize test cost whenever practical, but it will not do so at the expense of sufficient data.

4. EPA will continue to use the carbon balance method as its primary method for calculating fuel economy benefits from retrofit devices including fuel additives. In accordance with 40 CFR 610.42(a), other methods, e.g., gravimetric or volumetric, may also be used by independent test labs in conjunction with the carbon balance method. In those instances in which the addition of a fuel additive causes a significant change in the hydrogen/carbon ratio of the fuel, the carbon balance method may be modified in accordance with § 610.42(a) so that a technically correct calculation of fuel economy can be made. In any instance in which the hydrogen/carbon ratio cannot be adequately determined, the gravimetic or volumetric methods may be used in lieu of the carbon balance method. All of the methods allowed above are entirely appropriate for fuel additive evaluation because the test protocols require back-to-back testing and, therefore, the true change attributable to a fuel additive is readily determined and is not influenced by any slight deviation in actual fuel economy levels from those noted in on-road testing.

5. EPA's primary interest in evaluating devices (and additives) under Section 511 of the MVICSA is to determine changes in fuel economy and emissions. Based on the type of device and also on EPA's resources, EPA may also evaluate safety, driveability, and durability. EPA is not required to, nor does it intend to, evaluate fuel additives with respect to such benefits as freeze protection, water absorption capabilities, etc.

6. Because it lacks the necessary authority under the MVICSA, EPA will not evaluate oils or oil additives for fuel economy benefits.

E. Other Comments

Comments were also received that were not directly related to the proposed amendments or the test procedure issue, but were pertinent to the device evaluation program. Among those, Ford Motor Company commented that Table 1 in § 610.21 should be revised to specifically include fuel additives. EPA agrees; therefore this final rule includes an amended Table 1. Additionally, Lubrizol Corporation and Wynn Oil Company commented that EPA must treat certain information provided by manufacturers for their devices and fuel additives as confidential. EPA's position with respect to claimed confidential information is that all such information, including support data or other information which relate to the description and/or function of the device, will be handled in accordance with EPA regulations on confidentiality, 40 CFR 2.201–2.215. The classification of such data or information as confidential must be justified on a case-by-case basis by the manufacturer. In accordance with 40 CFR 2.208 EPA will not treat test results as confidential since Section 511(c) of the MVICSA requires disclosure of such information. Additionally, EPA may decide not to perform an evaluation of a device if it judges it cannot develop a technically sound final report because the preliminary information submitted by the manufacturer was claimed to be confidential.

III. Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, or government agencies, or significant adverse effects on competition, employment, investment, productivity, or innovation.

This regulation was submitted to the Office of Management and Budget (OBM) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket cited at the beginning of this preamble.

IV. Effect on Small Entities

Section 605 of the Regulatory Flexibility Act requires the Administrator to certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation does not have such an effect, because this regulation is not imposing any new requirement that would increase significantly the burden on small businesses beyond that already created under Section 511 of the MVICSA or under the prior regulations in this area. Thus, the Agency has not prepared an analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

V. Reporting and Recordkeeping Requirements

Information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0419.

VI. List of Subjects in 40 CFR Part 610

Fuel economy, Gasoline, Motor vehicles.

Dated: April 13, 1984.

William D. Ruckelshaus,

Administrator.

PART 610—[AMENDED]

For the reasons set forth in the preamble, Part 610, Subchapter Q, Chapter I of Title 40, Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 610 reads as follows:

Authority: Sec. 511, Motor Vehicle Information and Cost Savings Act, as amended (Sec. 301, Pub. L. 94–163, 89 Stat. 915 (15 U.S.C. 2011)).

2. In § 610.11 paragraphs (a)(1), (a)(1)(i), (a)(1)(ii), and (a)(4) are revised and (a)(1)(iii) is added as follows:

§ 610.11 Definitions.

(a) * * *

(1) "Retrofit device" or "device" means:

(i) Any component, equipment, or other device (except a flow measuring instrument or other driving aid, or lubricant or lubricant additive) which is designed to be installed in or on an automobile as an addition to, as a replacement for, or through alteration or modification of, any original component, or other devices; or

(ii) Any fuel additive which is to be added to the fuel supply of an automobile by means other than fuel dispenser pumps; and

(iii) Which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped, as determined under rules of the Administrator.

* * * * *

(4) "Manufacturer" means a person or company which is engaged in the business of producing or assembling, and which has primary control over the design specifications, of a retrofit device for which a fuel economy improvement claim is made.

* * * * *

3. In § 610.21, paragraph (c) is revised to read as follows:

§ 610.21 Device functional category and vehicle system effects.

* * * * *

(c) The device categories and the vehicle functional characteristics which may be adversely affected are noted for each device category in Table I. The notation for each characteristic is as follows:

Exhaust emissions.....1
Driveability.....2
Durability.....3
Performance.....4

TABLE 1

Device categories	Characteristics adversely affected
Fuel-Air System	
Carburetors and fuel injection systems	All.
Air-fuel ratio modifiers (e.g., air bleeds)	All.
Atomization devices (acoustic and mechanical).	All.
Vapor injectors	All.
Choke controls	1, 2, and 4.
Air filters	1, 2, and 4.
Fuel-air distribution systems (intake manifolds).	1, 2, and 4.
Fuel pressure regulators	All.
Ignition System	
Spark plugs	All.
Spark timing control systems	All.
Spark duration control systems	1, 4.
Spark energy sources	1, 4.
Emission Control Systems	
Exhaust gas recirculation (EGR) systems	All.
After-treatment devices	1, 2, and 4.
Drivetrain	
Tires	1.
Overdrive units	All.
Torque converter lockups	1, 2, and 4.
Exhaust System	
Headers	1.
Tuned exhaust systems	1.
Accessories	
Cooling fan or cooling fan couplings	1.
Cold start aids (e.g., engine heaters)	1.
Lubrication	
Oil filters	3.
Vehicle Body	
Aerodynamic drag reduction devices	1.
Miscellaneous	
Modification to valve timing	All.
Retrofit prechambers	All.
Fuel additives	All.
Other miscellaneous	Potentially all.

* * * * *

4. In § 610.30, paragraph (d) is added as follows:

§ 610.30 General.

* * * * *

(d) For each device that the Agency intends to test, the Administrator will give the manufacturer prior notice by mail of the Agency's intent to test the device and provide the manufacturer the opportunity to attend the test sessions and to comment on the specific test design and results.

[FR Doc. 84–11671 Filed 4–30–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

Merchant Marine Training

AGENCY: Maritime Administration, DOT.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is amending its merchant marine training regulations to effect a further 10 percent reduction in the entering classes at the United States Merchant Marine Academy.

EFFECTIVE DATE: May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin M. Hackett, Academies Program Officer, Office of Maritime Labor & Training, Maritime Administration—DOT, 400 Seventh Street, SW, Room 7302, Washington, DC 20590, Telephone: (202) 426—5759.

SUPPLEMENTARY INFORMATION: Following is a summary of the content of this final rulemaking.

Subpart C.—Admission and Training of Midshipmen at the United States Merchant Marine Academy

Section 310.53 Nominations and vacancies.—This section provides for lower quotas for geographical areas eligible to send students to the United States Merchant Marine Academy. State quotas are set in proportion to a state's representation in Congress (House and Senate), with no state having a quota of less than one.

The United States Merchant Marine Academy Regulations were amended, effective May 31, 1983, to achieve a reduction in the size of the entering classes by 10 percent. That reduction was necessary because there was estimated to be 37 percent more deck officers and 21 percent more engine officers than needed to sustain an adequate deck and engine officer workforce for our current active fleet of large oceangoing ships through 1986. The additional reduction in entering class size is warranted by continuing conditions and projections of workforce supply and demand. A continuing oversupply of deck and engine officers is projected based on present levels of class sizes. This projection has been the subject of discussions in various forums, including assemblages of senior officials of all maritime academies. The need for restraint in production of licensed merchant marine officers is also based on the belief that, if unemployed in their professions, these young persons would have wasted 4 years of effort and dedication of their training. Also, the Federal expenditure involved would be a waste of national resources. Any subsequent changes in class size must necessarily be based on reasonable estimates, national maritime and defense needs and on a consideration of the minimum number of students required at the Academy for it to continue to meet its training program

objectives in support of national maritime policy.

Cost and Benefits

This rule imposes no costs on the private sector. It reduces the entering class by 29 positions each year (with 116 fewer positions over a four year period) with an estimated savings in Federal cost of $80,000 (meals, uniforms, textbooks and midshipman travel) in the first year of implementation rising to $134,000 in the second year, $188,000 in the third year and $268,000 by the fourth year, as each subsequent new class is admitted with 29 fewer positions. These savings figures are based on the costs of the uniforms, textbooks and travel for each midshipman which amount to $974.00 ($229.00+$301.00+$444.00, respectively). The cost of meals for each midshipman is $1,768.00 during the first and fourth years, when they are at the Academy, and $884.00 during the second and third year when the students are away from the academy for six months for training aboard merchant ships.

E.O. 12291, Statutory Requirements and DOT Procedure

The Maritime Administrator has made a determination that this rulemaking meets none of the criteria in Executive Order 12291 for a major rule. Since this rulemaking affects only students and applicants to the USMMA, the economic impact of this final rule has been found to be so minimal under Department of Transportation regulatory policies and procedures (44 FR 11084, February 26, 1979) that a full regulatory evaluation is unnecessary.

The regulation contains no new or amended reporting requirement within the scope of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Pursuant to DOT Order 2100.5, this rule is considered to be significant because there is substantial Departmental interest, as well as congressional interest in the selection process for and allocation of appointments to the United States Merchant Marine Academy.

Section 553 of Title 5, United States Code, which sets forth notice, comment and effectiveness requirements for informal rulemakings, exempts from its application those rules relating to agency management and personnel. Therefore, as this rule relates to agency management and personnel, that statutory provision does not require that MARAD issue a notice for comment prior to issuance of a final rule or delay the rule's effectiveness for thirty days. However, even if 5 U.S.C. 553 were applicable, as the Congressional nomination process for the class entering July 1984 is underway, it is imperative that the amendment to Subpart C be published as a final rule. Moreover, delay would create confusion for Congressional nominating authorities who would initiate nominations, expecting the appointments to be made under current state quotas. Delay would also seriously affect the selection process at the admissions office of the United States Merchant Marine Academy, where the number of appointments are awarded based on precise knowledge of freshman vacancies available. Moreover, the Maritime Administration regularly and periodically issues regulations on merchant marine training as final rules, without opportunity for comment, since it believes it would not receive any substantive or meaningful comments.

Therefore, pursuant to provisions of 5 U.S.C. 553, good cause exists for finding that notice and public comment procedure is impracticable and unnecessary. In addition, due to the urgency surrounding the candidate selection process, the Maritime Administration finds good cause to make this regulation effective immediately under 5 U.S.C. 553.

List of Subjects in 46 CFR Part 310

Grant programs, Education, Schools, Seamen.

Accordingly, Subpart C of 46 CFR Part 310 is amended as follows:

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

Section 310.53, Nominations and vacancies, is amended by revising paragraph (b)(5) to read:

§ 310.53 Nominations and vacancies.

* * * * *

(b) * * *

(5) The distribution of each entering class by State is:

Alabama	4
Alaska	1
Arizona	3
Arkansas	3
California	21
Colorado	4
Connecticut	4
Delaware	1
Florida	10
Georgia	5
Hawaii	2
Idaho	2
Illinois	11
Indiana	5
Iowa	4
Kansas	3
Kentucky	4
Louisiana	5
Maine	2
Maryland	5
Massachusetts	6
Michigan	9
Minnesota	5
Mississippi	3
Missouri	5
Montana	2
Nebraska	2
Nevada	2
New Hampshire	2
New Jersey	7
New Mexico	2
New York	16
North Carolina	6
North Dakota	1
Ohio	10
Oklahoma	4
Oregon	3
Pennsylvania	11
Rhode Island	2
South Carolina	4
South Dakota	1
Tennessee	5
Texas	13
Utah	2
Vermont	1
Virginia	5
Washington	5
West Virginia	3
Wisconsin	5
Wyoming	1

* * * * *

This regulation is not subject to the requirements of section 3507 of Pub. L. 96–511. December 11, 1980.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Pub. L. 97–31 (August 6, 1981); 49 CFR 1.66 (46 FR 47458, September 28, 1981))

Dated: April 24, 1984.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84–11585 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–81–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1011, 1152, 1177, 1180, and 1182

[Ex Parte No. 246 (Sub-2)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: On February 17, 1984, the Interstate Commerce Commission published a notice of proposed rulemaking in the Federal Register (49 FR 6118) proposing to adjust existing fees and to establish several new fees for services the agency provides.

In this document, the Commission adopts the revision to its schedule of fees for services and benefits provided by the agency under its jurisdictional statute. New fees are being established for various activities where persons are identifiable recipients of special benefits conferred by activities of the Commission. The fees are based on the Commission's costs of providing services in accordance with judicially established guidelines.

It is necessary to establish new fees to transfer the cost burden of providing services from the general taxpayer to the recipient of the services. This action will require persons who request or utilize the Commission's services to pay a fair and equitable charge.

DATE: These rules will be effective July 2, 1984.

FOR FURTHER INFORMATION CONTACT:

Cost Study Information—
Paul Meder, (202) 275–7457,
Susan Maslar, (202) 275–6778
Other Information—
James H. Bayne, (202) 275–7428

or

Kathleen King, (202) 275–7429.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the full Commission decision which may be obtained from the Office of the Secretary, Room 2215, 12th Street and Constitution Avenue, NW., Washington, DC 20423; or call (202) 275–7428.

Regulatory Flexibility Analysis

We adopt our preliminary finding that this proceeding will have a significant economic impact on a substantial number of small entities and that those impacts will be generally beneficial. Most of the comments did not specifically address the potential impact on small entities.

As we noted in the NPR, our application fee for motor carrier authority will decrease, rather than increase. Inasmuch as this is the major contact that small carriers have with the Commission, they should generally benefit. Moreover, owner-operator application fees will decrease, which should enable more owner-operators to participate more directly in regulated transportation.

Where new fees are adopted or fees have been increased we have attempted to minimize the effect on small entities to the extent legally practicable. For example, we have adopted separate rail and non-rail fees in many instances. This should benefit small entities, whose filing fees will no longer subsidize more complex proceedings.

The rail fees adopted here provide separate fee categories in the merger, consolidation and purchase applications, so that small carriers are not burdened with the fees that correspond to major rail proceedings. We have considered similar treatment for applications to construct, extend, acquire or operate rail lines under 49 U.S.C. 10901 (Item 33), as suggested by the New York Department of Transportation and American Short Line Railroads, but find this to be unnecessary in view of the substantially reduced costs and the availability of the exemption procedures.

We have decreased some fees where we found the amount was excessive or would discourage use of Commission protection contrary to the public interest. Numerous commentors objected to our charging for tariffs and suggested various alternatives. These fees have been decreased.

Finally, we note that small shippers may be significantly impacted by the newly introduced fee for filing complaints against existing rates. As noted above, we have decreased this fee. To the extent the fee may nonetheless unduly affect small entities, it may be further reduced or waived under our general procedure of Section 1002.2(e). In that way, small businesses can continue to use the Commission's regulatory procedures.

In sum, we believe the rules as adopted represent an appropriate balance which satisfies the purposes of both the IOAA and the Regulatory Flexibility Act (5 U.S.C. 601–612). The fees adopted are for services that flow to identifiable beneficiaries. They are set at the full cost of the services provided to the maximum extent practicable. However, we also have considered alternatives suggested by the commentors.

It is ordered: The motion of the Motor Carrier Traffic Association, Inc., for a general waiver of our tariff filing and general increase fees is denied.

The final rules set forth in the appendix are adopted.

Authority: 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 10321.

Decided: April 25, 1984.

List of Subjects in 49 CFR Parts 1002, 1011, 1152, 1177, 1180 and 1182

Administrative practice and procedure.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Commissioner Gradison concurred with a separate expression.

James H. Bayne,
Acting Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

(1) In § 1002.1, the heading, introductory text and paragraphs (a)–(f) are revised to read as follows:

§ 1002.1 Fees for records search, copying, certification, and related services.

Certifications and copies of such tariffs, reports and other public records and documents on file with the Interstate Commerce Commission as may be practicable to furnish, as well as searches and copying of records not considered public under the Freedom of Information Act (5 U.S.C. 552), will be furnished on the following basis:

(a) Certificate of the Secretary, $3.00.

(b) Services involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of $16.00 per hour.

(c) Services involved in checking records to be certified to determine authenticity, including the clerical work, etc., incidental thereto, at the rate of $11.00 per hour.

(d) Electrostatic copies of tariffs, reports, and other public documents, at the rate of $0.60 per letter size or legal size exposure. A minimum charge of $3.00 will be made for this service.

(e) The fee for search and copying services requiring ADP processing are as follows:

(1) A fee of $28.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

(2) The fee for port minute time for the search will be set at the current rate set forth in the Commission's contract with its time sharing computer contractor. Information on those charges can be obtained from the Chief, Section of Systems Development, Interstate Commerce Commission, Washington, DC 20423.

(3) Printing shall be charged at the rate of $.05 per page of computer generated output with a minimum charge of $.25. A charge of $25 per reel of magnetic tape will be made if the tape is to be permanently retained by the requestor.

(f) Search and copying services for records not considered public under the Freedom of Information Act as follows:

(1) The search fee hourly rate will be based on the hourly rate of the individual or individuals who perform the search. Those hourly rates are set forth in the following table.

Grade	Rate
GS-1	4.88
GS-2	5.31
GS-3	5.98
GS-4	6.72
GS-5	7.51
GS-6	8.38
GS-7	9.31
GS-8	10.31
GS-9	11.39
GS-10	12.54
GS-11	13.78
GS-12	16.51
GS-13	19.63
GS-14	23.20
GS-15 and above	27.29

(2) The fee for electrostatic copies shall be $.60 per letter size or legal size exposure with a minimum charge of $3.00.

(3) The fee charged for ADP data is set forth in paragraph (e) of this section.

(4) No fee shall be charged for time spent reviewing documents to determine disclosability under the Freedom of Information Act. A fee may be charged for searches which are not productive and for searches for records or those parts of records which are determined to be exempt from disclosure.

* * * * *

(2) Section 1002.2 is revised to read as follows:

§ 1002.2 Filing fees.

(a) Manner of payment.

(1) Except as specified in paragraphs (a) (2) and (3) of this section, all filing fees will be payable at the time and place the application, petition, notice, tariff, contract, or other document is tendered for filing.

(2) When emergency temporary operating authority application [Item 9] and emergency temporary operation authority extensions [Item 10] are initiated by telegram or telephone, the fee or fees are due when the OP-MCB-95 application is submitted to the appropriate Commission regional office.

(3) For fee items 46, 47, 48, and 49 where there is an initial payment and subsequent quarterly direct billing, only the initial fee must be paid when the application is filed.

(4) Fees will be payable to the Interstate Commerce Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency.

(b) Deficiencies.

(1) Any filing that is not accompanied by the appropriate filing fee is deficient.

(2) The Secretary will inform any person who submits a deficient filing that:

(i) Such filing will be rejected, unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing will be deemed the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Fees not refundable.* Fees will be assessed for every filing in the type of proceeding listed in the schedule of fees contained in paragraph (f) of this section, subject to the exceptions contained in paragraphs (d) and (e) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Commission, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or approved, denied, dismissed, or withdrawn. If an application, petition, notice, tariff, contract, or other document is rejected by the Commission as incomplete or for some other reason, prior to docketing or acceptance, the fee will be returned. If an application is rejected as incomplete after docketing, the applicant will be given the opportunity to file a replacement application with reference to the fee number assigned to the prior application and no additional fee will be required, but the fee will not be refunded. If an individual exemption proceeding becomes a matter of general applicability and is handled through the rulemaking process, the Commission will refund the filing fee.

(d) *Related or consolidated proceedings.* (1) Separate fees need not be paid on: related applications filed by the same applicant which would be the subject of one proceeding, such as an application for removal of one or more restrictions in more than one certificate or permit held by the same person; a related plan of track relocation, joint use, purchase of trackage rights, and issuance of securities (however, such applications must be filed by the same applicant that filed the primary application); a motor common carrier acquisition application combined with a related application for a certificate of public convenience and necessity; or the like. In such instances, the only fee to be assessed will be that applicable to the embraced proceeding which carries the highest filing fee as listed in paragraph (f) of this section; except that for directly related applications involving a transfer under 49 U.S.C. 10926 or an application on Form OP-1 for gateway elimination and/or a conversion of a certificate of registration to a certificate of public convenience and necessity, the sole fee shall be the basic fee for the transfer application. However, the directly related application must be filed at the same time the primary application is filed.

(2) Each filing of an original or updated notice of intent to engage in compensated intercorporate hauling operations shall be considered a separate filing, and shall be subject to payment as described in paragraph (f) (12) of this section.

(3) Separate fees will be assessed for the filing of temporary authority applications as provided in paragraphs (f) (8), (9) and (10) of this section, regardless of whether such applications are related to an application for corresponding permanent authority.

(4) The Commission may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(e) *Waiver of Reduction of filing fees.* It is the general policy of the Commission not to waive or reduce filing fees except as described below:

(1) Filing fees are waived for an application or other proceeding which is filed by a federal government agency, or a state or local government entity. For purposes of this section the phrases "federal government agency" or "government entity" do not include a quasi-governmental corporation or government subsidized transportation company.

(2) In extraordinary situations the Commission will accept requests for waivers or fee reductions in accordance with the following procedure:

(i) *When to request.* At the time that a filing is submitted to the Commission the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Secretary.

(ii) *Basis.* The applicant must show the waiver or reduction of the fee is in the best interest of the public, or that payment of the fee would impose an undue harship upon the requestor.

(iii) *Commission Action.* The Secretary will notify the applicant of the decision to grant or deny the request for waiver or reduction.

(f) Schedule of Filing Fees.

Type of proceedings	Fees
Part I.—Non-Rail Application for Operating Authority or Exemptions	
(1) An application for motor carrier or water carrier operating authority, water carrier exemption authority, a certificate of registration or broker or freight forwarder authority	$150
(2) A "Fitness-only" application for motor common carrier authority under 49 U.S.C. 10922(b)(4) (E) or motor contract authority under 49 U.S.C. 10923(b)(5)(A) to transport food and related products	70
(3) A petition to interpret or clarify an operating authority under 49 CFR 1160.64	1,600
(4) A request seeking the modification of operating authority only to the extent of making a ministerial correction (when the original error was caused by the applicant), a change in the name of the shipper or owner of a plantsite or the change of a highway name or number	27
(5) A petition to renew authority to transport explosives under 49 U.S.C. 10922 or 10923	27
(6) An application to remove restrictions or broaden unduly narrow authority under 49 CFR 1165	150
(7) An application for authority to deviate from authorized regular route authority under 49 U.S.C. 10923(a)	90
(8) An application for motor carrier or water carrier temporary authority under 49 U.S.C. 10928(b)	70
(9) An application for motor carrier emergency temporary authority under 49 U.S.C. 10928(c)(1)	50
(10) An extension of the time period during which emergency temporary authority as defined in 49 U.S.C. 10928(c)(1) may continue	12
(11) Request for name change of carrier, broker or freight forwarder	5
(12) A notice required by 49 U.S.C. 10524(b) to engage in compensated intercorporate hauling, including an updated notice required by 49 CFR 1167.4	70
(13) A notice of intent to operate under the agricultural co-operative exemption in 49 U.S.C. 10526(a)(5)	70
(14) [Reserved]	
(15) [Reserved]	
(16) [Reserved]	
Part II.—Non-Rail Applications to Discontinue Transportation	
(17) A notice or petition to discontinue ferry service under 49 U.S.C. 10908	6,300
(18) A petition to discontinue motor carrier of passenger transportation in one state	500
(19) [Reserved]	
Part III.—Non-Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement	
(20) An application for the pooling or division of rail traffic	1,200
(21) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier or carriers	600
(22) An application for approval of a non-rail rate association agreement. 49 U.S.C. 10706	7,600
(23) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant Amendment	3,500
(ii) Minor Amendment	27
(24) An application for temporary authority to operate a motor or water carrier. 49 U.S.C. 11349	100
(25) An application to transfer or lease a certificate or permit, including a certificate of registration, or a broker's license or to change the control of companies holding a broker's license under 49 U.S.C. 10926 or to transfer a water carrier exemption authorized under 49 U.S.C. 10544	150
(26) An application for approval of a motor vehicle rental contract. 49 CFR 1057.41(d)	100
(27) A petition for exemption under 49 U.S.C. 11343(e)	400
(28)–(32) [Reserved]	
Part IV.—Rail Applications for Operating Authority	
(33) An application for a certificate authorizing the construction, extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	2,000
(34) Feeder Line Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(i)	2,400
(35) A Feeder Line Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(ii)	1,400
(36)–(37) [Reserved]	
Part V.—Rail Applications to Discontinue Transportation Services	
(38) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation, by bankrupt railroads, or for exempt abandonments under 49 CFR 1180.50)	1,600
(39) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by Consolidated Rail Corporation pursuant to the North East Rail Service Act	100
(40) Abandonments filed by bankrupt railroads. 49 CFR 1180.40	500
(41) Notice of exempt abandonments. 49 CFR 1180.50	600
(42) A notice or petition to discontinue passenger train service	6,300
(43) [Reserved]	
Part VI.—Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement	
(44) An application for use of terminal facilities or other application under 49 U.S.C. 11103	5,300
(45) An application for the pooling or division of rail traffic. 49 U.S.C. 11342	3,600
(46) An application for two or more carriers to consolidate or merge their properties or franchises or a part thereof, into one corporation for ownership, management, and operation of the properties previously in separate ownership:	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	1,700
(iv) Exempt transaction	450
(v) Responsive application	1,700
(47) An application of a noncarrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11343(a)(1):	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	1,700
(iv) Exempt transaction	450
(v) Responsive application	1,700
(48) An application to acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11343:	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	1,700
(iv) Exempt transaction	450
(v) Responsive application	1,700
(49) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise:	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	1,700
(iv) Exempt transaction	450
(v) Responsive application	1,700
(50) An application for a determination under 49 U.S.C 11321(a)(2) or (b)	20,000
(51) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	19,300
(52) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant Amendment	3,500
(ii) Minor Amendment	27
(53) An application for authority to hold a position as officer or director. 49 U.S.C. 11322	200
(54) An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization, or an application for exemption from competitive bidding requirements of Ex Parte No. 158, 49 CFR 1175.10. 49 U.S.C. 11301	950
(55) A petition for exemption (other than a rulemaking) filed by rail carriers. 49 U.S.C. 10505	550
(56) An application for forced sale of bankrupt railroad lines	1,100
(57)–(59) [Reserved]	
Part VII.—Formal Proceedings	
(60) A complaint alleging unlawful rates or practices of carriers	2,300
(61) A complaint or petition seeking the prescription of the division of joint rates, fares or charges under 49 U.S.C. 10705(f)(1)(A)	1,400
(62) A petition for declaratory order:	
(i) Petition for declaratory order involving dispute over an existing rate or practice which is comparable to a complaint proceeding	1,000
(ii) All other petitions for declaratory order	800
(63) Requests for nationwide and regional collectively filed general rate increases or major rate restructuring, accompanied by supporting cost and financial information	4,200
(64) A petition for exemption from filing tariffs by water and bus carriers	100
(65) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	2,000
(66) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate rail carriers. 49 U.S.C. 11501	500
(67) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate bus carriers. 49 U.S.C. 11501	500
(68)–(71) [Reserved]	
Part VIII.—Informal Proceedings	
(72) An application for authority to establish released value rates or ratings under 49 U.S.C. 10730 (except applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other natural disaster)	300
(73) An application for special permission for short notice or the waiver of other tariff publishing requirements	30
(74) The filing of tariffs, rate schedules and contracts, including supplements	[1] 4
(75) Special docket application from rail and water carriers	40
(76) Informal complaint about rail rate application	90
(77) An application for original qualification as self-insurer	60
(78) A service fee for insurer, surety or self-insurer accepted certificate of insurance or surety bond. The fee is based on a formula of $10 per accepted certificate of insurance or surety bond as indication of ICC insurance activity. (There is a $50 annual minimum)	[2] 10
(79) A petition for waiver of any provision of the lease and interchange regulations. 49 CFR 1057	200
(80) A petition for reinstatement of revoked operating authority	30
(81) Acceptance of filings of designated agents for service of process	[3] 8
(82) Request for informal interpretations from the Office of Compliance and Consumer Assistance	200
(83) Petition for reinstatement of a dismissed operation rights application	150
(84) Filing of documents for recordation under 49 U.S.C. 11303 and 49 CFR 1177.3(c)	[4] 10
(85) Valuations of railroad lines in conjunction with purchase offers in abandonment proceedings	700
(86) Informal opinions about rate applications (all modes)	40
(87)–(95) [Reserved]	
Part IX.—Services	
(96) Messenger delivery of decisions to a railroad carrier's Washington, DC agent	[5] 7
(97) Request for service list for proceedings	[6] 5
(98) Requests for copies of the one-percent carload waybill sample	80
(99) Verification of surcharge level pursuant to Ex Parte No. 389, Procedures for Requesting Rail Variable Cost & Revenue Determination for Joint Rates Subject to Surcharge or Cancellation	[7] 10
(100) Application fee for Interstate Commerce Commission Practitioners' Exam	50

[1] Per series transmitted.
[2] Per accepted certificate.
[3] Per BOC–3 filing.
[4] Per document.
[5] Per delivery.
[6] Per list.
[7] Per movement verified.

(3) Section 1002.3 is added, to read as follows:

§ 1002.3 Updating user fees.

(a) *Update.* Each fee established in this part shall be updated in accordance with this section annually.

(b) *Publication and effective dates.* Updated fees shall be published in the **Federal Register** and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a fee is established shall pay the fee in effect at the time of the filing.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. Cost components shall be updated as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of Commission employees. Base level direct labor costs are direct labor costs determined by the Commission's FY 1983–84 User Fee Cost Study. The base period for measuring changes shall be April 1984.

(2) Governmental overhead costs shall be updated by multiplying updated direct labor costs by estimated employee fringe benefits and other wage related governmental cost contributions. Estimates of these benefits and contributions are currently published by the Office of Management and Budget in OMB Circular A–76.

(3) General and administrative costs and operational overhead shall be updated by mulitiplying updated direct labor and governmental overhead costs by the sum of base level operations overhead and current Commission general and administrative percentage costs. Base level operations overhead are those percentage costs determined by the Commission's FY 1983–84 User Fee Cost Study. Current Commission general and administrative percentage costs shall be determined by dividing budgeted Commission general and administrative costs for the current fiscal year by total budgeted agency expenses for the current fiscal year.

(4) Other costs shall be updated by multiplying base level other costs by percentage changes in the consumer price index. Base level other costs are other costs determined by the Commission's FY 1983–84 User Fee Cost Study. The base period for measuring changes shall be April 1984.

(e) *Rounding of updated fees.* Updated fees shall be rounded in the following manner: (1) fees between $1–$30 will be rounded to the nearest $1; (2) fees between $30–$100 will be rounded to the nearest $10; (3) fees between $100–$999 will be rounded to the nearest $50; and (4) fees above $1,000 will be rounded to the nearest $100. (This rounding procedure excludes copying, printing and search fees.)

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

(4) In § 1011.8, a new paragraph (b) is added to read as follows:

§ 1011.8 Delegation of Authority by the Interstate Commerce Commission to Specific Bureaus and Offices of the Commission.

* * * * *

(b) *Office of the Secretary.* Authority to waive filing fees set forth in 49 CFR 1002.2(f) will be delegated to the Secretary of the Commission, to be exercised in consultation with involved offices.

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

(5) In § 1152.23, paragraph (e) is revised to read as follows:

§ 1152.23 Summary application.

* * * * *

(e) A check or money order payable to the Interstate Commerce Commission must be submitted with the application to cover the applicable filing fee.

PART 1177—RECORDATION OF DOCUMENTS

(6) In § 1177.3 paragraph (c) is revised to read as follows:

§ 1177.3 Requirements for submission.

* * * * *

(c) Be accompanied by a fee in the appropriate amount. The filing fee for either a primary or secondary document is $10 per document. However, assignments which are executed prior to the filing of the primary document and which are submitted concurrently will be treated along with the primary document as one for fee purposes and will be assessed only one $10 fee. A lease and agreement (Philadelphia Plan) shall be similarly treated.

* * * * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

(7) In § 1180.4, paragraph (c)(1) is revised to read as follows:

§ 1180.4 Procedures.

* * * * *

(c) *Application.* (1) The fee to file a primary application with the Commission under these procedures is set forth at 49 CFR 1002.2(f)(46)–(49). There is no filing fee for a directly related application filed by the party that filed the primary application. The fee for a directly related or responsive application filed by another party is $1,700. For a finance-related exemption filed by any party the fee is $450.

* * * * *

PART 1182—MOTOR CARRIER APPLICATIONS TO CONSOLIDATE, MERGE, OR ACQUIRE CONTROL UNDER 49 U.S.C. 11343–11344

§ 1182.1 [Amended]

(8) In § 1182.1, paragraph (b) is amended by revising the amount "$700" in the third sentence to read "$600".

[FR Doc. 84–11678 Filed 4–30–84; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 40322–37]

Shrimp Fishery of the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the mandatory reporting of statistical data by shrimp fishermen, dealers, and processors. The Fishery Management Plan for the Shrimp Fishery in the Gulf of Mexico, approved in 1980, contained a management measure requiring the reporting of shrimp landing statistics. Regulations to implement this provision were reserved until the National Marine Fisheries Service designed a reporting system approved by the Gulf of Mexico Fishery Management Council. This system has been developed and approved and is implemented by this final rule. The intended effect of this rule is to provide for timely reporting of shrimp catch data during the fishing season.

EFFECTIVE DATE: May 31, 1984.

ADDRESS: A copy of the Final Supplemental Regulatory Impact Review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was approved May 29, 1980, under authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). Final regulations implementing the FMP were published in the **Federal Register** on May 20, 1981 (46 FR 27494). The FMP contains a provision for the accumulation of shrimp landings information necessary for responsive management of the fishery. However, because the data collection system had not been developed when the regulations were implemented, one section of the regulations, 50 CFR 658.5, was reserved. The National Marine Fisheries Service (NMFS) is responsible for the design (subject to review by the Gulf of Mexico Fishery Management Council (Council)) implementation, and management of the data collection system.

NMFS has now designed and the Council has approved a statistical data collection system which essentially makes mandatory the voluntary reporting program utilized in this fishery since 1956. This final rule implements that system.

The proposed rulemaking (48 FR 42840, September 20, 1983) contained a discussion of the need for the mandatory reporting and a description of data collection procedures. These are not repeated here.

Response to Comments

Two commenters (a shrimp association and a national fishing organization) opposed the requirement for immediately reporting price and volume information. Delayed reporting of this information was considered by the Council prior to the publication of the proposed regulations, but was rejected because: (1) It is unnecessary to protect confidentiality of current bid prices since dealers will be providing current box weight and box weight prices rather than prices for packed and graded shrimp, (2) it would significantly add to the cost of and disrupt a stable data collection and analysis system, and (3) it would reduce the information available for those management decisions which are time critical.

The same national fishing organization suggested that prior to implementation of the proposed mandatory reporting NMFS insure that industry is supportive of the program in order that accurate data will be reported. Industry representatives at public hearings, as well as Council meetings, substantiated the need for accurate data, and indicated general support for the proposed system. Additionally, the commenter suggested that NMFS insure that data collection be uniform throughout the Gulf. The system which will be implemented under this rule is Gulf-wide and the same criteria and data reporting requirements will apply to all resource users.

Marine resource agencies for the States of Texas and Louisiana objected to the application of the reporting requirements to shrimping activities occurring within State waters. These agencies indicated that such action would constitute preemption of State authority and impact on present and future State laws. NMFS disagrees that this action preempts State authorities, as a matter of law. A State is free to require the submission of information from shrimp fishermen, dealers and processors without conflicting with the Magnuson Act. Furthermore, there is no conflict between Federal and State requirements: NMFS collects shrimp statistics under the current voluntary data gathering programs for both States under cooperative agreements.

Effective management of the shrimp resource in the Gulf requires comprehensive and uniform data collection. Stock assessment, maximum sustainable yield calculations and optimum yield determinations must be based upon information gathered from State waters as well as the fishery conservation zone (FCZ). Were NMFS to accept and implement the comments of these marine resource agencies, its ability to properly manage the shrimp resource throughout the Gulf would be unacceptably limited.

Changes From the Proposed Rule

The final rule clarifies § 658.5(b)(1) to require the reporting of vessel name and official number.

Classification

The Assistant Administrator for Fisheries, NOAA, after considering all comments on the proposed regulatory amendment has determined that this regulatory amendment is necessary and appropriate for conservation and management of the fishery and is consistent with the national standards and other provisions of the Magnuson Act, and other applicable law.

It was previously determined, on the basis of a regulatory impact review (RIR), that rules to implement the FMP, except for this measure, were not major under Executive Order 12291. The RIR was summarized in the preamble to the final rules for the FMP (see 46 FR 27493). A final supplemental RIR, prepared for this regulatory amendment, does not alter the findings of the previous RIR.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the regulatory amendment simply adds a mandatory requirement to an already existing data collection system and very limited additional economic impacts will be experienced. As a result, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). The mandatory collection of this information has been approved by the Office of Management and Budget (OMB control number 0648–0013) through September 30, 1986.

This action is part of a previous Federal action for which a final environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on March 13, 1981 (46 FR 16720).

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 658

Fisheries, Reporting requirements.

Dated: April 25, 1984.

Carmen J. Blondin,

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

For reasons set forth in the preamble, 50 CFR Part 658 is amended as follows:

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 658 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In Part 658, the Table of Contents is amended by revising the heading for § 658.5 from "Recordkeeping and reporting [Reserved]" to read "Reporting requirements."

3. In § 658.2, the definition of *Statistical area* is added in alphabetical order to read as follows:

§ 658.2 Definitions.

* * * * *

Statistical area means one or more of the 21 statistical grids depicted in Figure 5. In addition, the term includes the following "inside" water areas:

"Inside" water area	Code No.
Charlotte Harbor, FL	4.1
Tampa Bay, FL	5.1
Apalachicola Bay, FL	7.1
St. Andrews Bay, FL	8.1
St. Joseph Bay, FL	8.2
Choctawatchee Bay, FL	9.1
Pensacola Bay, FL	10.1
Alabama Inside Waters (Exclusive of Mississippi Sound), AL	10.2
Little Lagoon, AL	10.5
Mississippi Sound, MS	11.1
Lakes Borgne and Pontchartrain, LA	12.1
Breton and Chandeleur Sounds and Adjacent Marsh Areas, LA	12.2
Inside Waters from Mississippi River to Bayou Lafourche, LA	13.1
Inside Waters from Bayou Lafourche to Atchafalaya River, LA	14.1
Inside Waters from Atchafalaya River to Tigre Point, LA	15.1
Inside Waters from Tigre Point to Louisiana Point, LA	16.1
Sabine Lake, TX	17.2
Galveston Bay System, TX	18.1
Matagorda Bay System, TX	19.1
San Antonio Bay System, TX	19.2
Arkansas Bay System, TX	19.3
Corpus Christi Bay System, TX	20.1
Upper Laguna Madre, TX	20.2
Lower Laguna Madre, TX	21.1

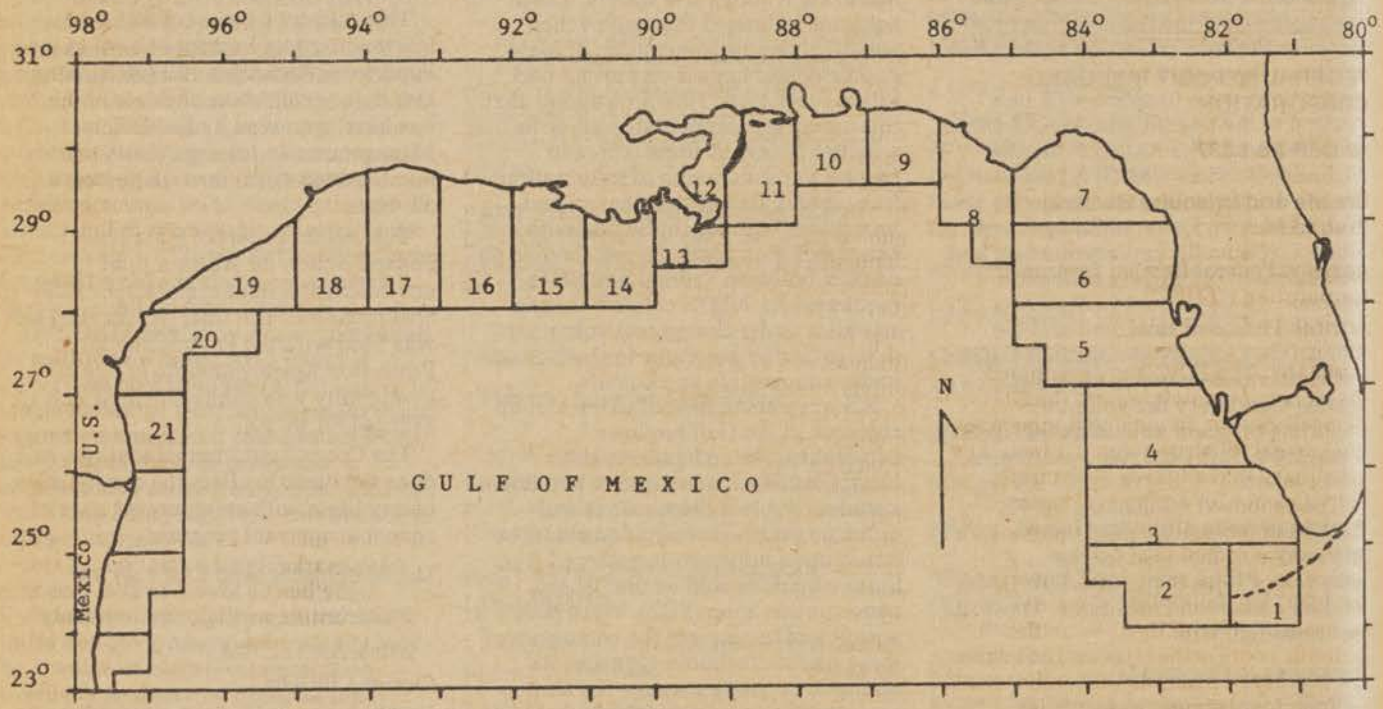

Figure 5. Statistical Grids for Reporting Harvest of Shrimp
For Illustrative Purposes Only - Not to Scale

* * * * *

4. § 658.5 is revised to read as follows:

§ 658.5 Reporting requirements.

(a) *Vessel owners and operators.* The owner or operator of any fishing vessel that fishes for, or lands, shrimp or any part thereof in the Gulf of Mexico or in adjoining State waters, and who is selected to report by the Center Director, must provide upon request the following information regarding any fishing trip to the Center Director or his designee:

(1) Name and official number of vessel;

(2) Amount of catch of shrimp by species;

(3) The condition of the shrimp (heads on/heads off);

(4) Depth fished and information regarding fishing location that is specific enough to enable the Center Director or his designee to ascertain the statistical area fished;

(5) Person to whom sold, bartered, or traded;

(6) Number, size and type of gear; and

(7) Effort and period of fishing.

(b) *Dealers and processors.* Any person who receives shrimp or parts thereof by way of purchase, barter, trade or sale from a fishing vessel or person that fishes for, or lands, shrimp or parts thereof in the Gulf of Mexico or in adjoining State waters, and who is selected to report by the Center Director, must provide upon request the following information to the Center Director or his designee:

(1) Fishing vessel (name and official number) or person (if harvested from other than a vessel) from which received;

(2) Amount of shrimp or parts thereof received by species and size category for each vessel trip; and

(3) Exvessel value by size category of shrimp or portions thereof received.

(Approved by the Office of Management and Budget under OMB control number 0648-0013).

5. In § 658.7, paragraphs (b) through (l) are redesignated as (c) through (m), and a new paragraph (b) is added to read as follows:

§ 658.7 Prohibitions.

* * * * *

(b) Falsify or fail to report information required to be submitted upon request by § 658.5;

* * * * *

[FR Doc. 84-11630 Filed 4-26-84; 11:08 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 85
Tuesday, May 1, 1984

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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: The FDIC has determined that it is not unlawful under the Glass-Steagall Act for an insured nonmember bank to establish or acquire a bona fide subsidiary that engages in securities activities nor for an insured nonmember bank to become affiliated with a company engaged in securities activities. At the same time, however, the FDIC has found that some risk may be associated with those activities. In order to address that risk and to ensure the legality of insured nonmember bank indirect involvement in securities activities, the FDIC is proposing to amend its regulations to (1) define bona fide subsidiary, (2) limit an insured nonmember bank's permissible direct and indirect investments in its securities subsidiary or subsidiaries, (3) require notice of intent to invest in a securities subsidiary, (4) limit the permissible securities activities of insured nonmember bank subsidiaries, and (5) place certain other restrictions on loans, extensions of credit, and other transactions between insured nonmember banks and their subsidiaries or affiliates that engage in securities activities. This action is a continuation of a rulemaking initiated by the FDIC on May 9, 1983 with the adoption of a proposed amendment to Part 337 which was published for public comment at 48 FR 22155.

DATE: Comments must be received by May 31, 1984.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division, (202–389–4171), Room 4126 E, 550 17th Street, NW., Washington, D.C. 20429

SUPPLEMENTARY INFORMATION: On August 23, 1982, the Board of directors of the FDIC adopted a policy statement concerning the applicability of the Glass-Steagall Act to securities activities of subsidiaries of nonmember banks. The policy statement, which was published in the **Federal Register** on September 3, 1982 (47 FR 38984), concluded that, in the opinion of the Board of Directors, the Banking Act of 1933 (popularly known as the Glass-Steagall Act and codified in various provisions of title 12 of the United States Code) does not by its express terms prohibit an insured nonmember bank from establishing an affiliate relationship with or organizing or acquiring a subsidiary corporation that engages in the business of issuing, underwriting, selling or distributing stocks, bonds, debentures, notes, or other securities. Although the policy statement was not designed to address the safety and soundness of such activities, it did state that the FDIC recognized its ongoing responsibility to ensure the safe and sound operation of insured nonmember banks and that, depending on the facts, potential risks can be inherent in a bank subsidiary's involvement in particular securities activities.

In keeping with that statement, the FDIC on September 20, 1982 adopted an Advance Notice of Proposed Rulemaking (47 FR 42121) designed to solicit comment on the need, if any, for rulemaking with regard to securities activities of affiliates and subsidiaries of insured nonmember banks. After carefully reviewing the comments received in response to that notice and after reviewing in conjunction therewith the purposes of the Glass-Steagall Act as articulated in the Act's legislative history and recent case law construing the Act, the FDIC adopted on May 9, 1983 a proposed regulation (May, 1983 proposal) addressing the securities activities of subsidiaries and affiliates of insured nonmember banks. As stated in the preamble to the May, 1983 proposal (48 FR 22155), "[The] proposal is a recognition by the FDIC that at least some of [the] hazards [contemplated by the Glass-Steagall Act] can and do exist [when a bank is indirectly involved in securities activities] even though, in the FDIC's opinion, a bank's involvement in securities activities is not unsafe or unsound in all instances. * * * Rather than deny insured nonmember banks the opportunity of acquiring or forming securities subsidiaries because of the presence of some risk, the FDIC is proposing to eliminate or lessen the risks that can be present by placing a number of restrictions on a nonmember bank's indirect involvement in the securities area."

The basic features of the May 1983 proposal were as follows: (1) A requirement that a bank give FDIC notice of intent to invest in a securities subsidiary; (2) a prohibition on an insured nonmember bank establishing or acquiring a subsidiary that underwrites securities unless the underwriting activity is done on a best-efforts basis, is the underwriting of top rated debt securities, and/or is the underwriting of a money market type mutual fund; (3) a limit on the bank's investment in one or more securities subsidiaries to twenty percent of the bank's equity capital; (4) a limit on the amount of loans or other extensions of credit the bank can make to its securities subsidiary or affiliate; (5) a prohibition on the bank making loans to any customer where the purpose of the loan is to acquire securities currently being underwritten or distributed by the bank's subsidiary or affiliate or accepting such securities as collateral on a loan or other extension of credit; (6) a prohibition on the bank directly or indirectly making loans or other extensions of credit to companies whose securities are currently being underwritten or distributed by the bank's subsidiary or affiliate if those securities are not rated in the top four rating categories by a nationally recognized rating service; (7) a prohibition on the bank as trustee purchasing in its sole discretion any security currently being underwritten, distributed, or issued by the bank's subsidiary or affiliate or any security currently being underwritten, distributed, or issued by any investment company advised by the bank's subsidiary or affiliate; and (8) a prohibition on the bank transacting business through its trust department

with the bank's securities subsidiary or affiliate unless the transactions are comparable to transactions with an unaffiliated securities company.

Additionally, the May 1983 proposal defined the term "bona fide subsidiary" as a subsidiary of an insured nonmember bank that at a minimum (i) is adequately capitalized; (ii) is physically separate in its operations from the operation of the bank; (iii) maintains separate accounting and other corporate records; (iv) observes separate formalities such as separate board of directors meeting; (v) maintains separate employees who are compensated by the subsidiary; and (vi) conducts business separately from, functions independently of, and is not identified with, the banking business of the insured nonmember bank.

The May proposal was published for a sixty-day comment period which ended on July 18, 1983. In addition to inviting written comments during that time period, the FDIC invited oral testimony at a one-day public hearing that was held on June 17, 1983. The FDIC received 35 written comments and heard oral testimony from two witnesses at the June 17 public hearing. Because of the complexity of the issues involved and the relatively small number of comments received during the comment period, the FDIC has determined to issue a revised proposed regulation. The new proposed regulation was formulated after carefully reviewing the written comments as well as testimony given before various congressional committees that was given directly in connection with, or was relevant to, FDIC's rulemaking. The written and oral comments as well as the testimony given before Congress are summarized below where relevant to an explanation of the new proposed regulation.

1. Bona Fide Subsidiary

The term "bona fide subsidiary" as proposed for comment required at a minimum that the subsidiary (i) be adequately capitalized; (ii) be physically separate in its operations from the operation of the bank; (iii) maintain separate accounting and other corporate records; (iv) observe separate formalities such as separate board of directors' meetings; (v) maintain separate employees who are compensated by the subsidiary; and (vi) conduct business separately from, function independently of, and not be identified with, the banking business of the insured nonmember bank.

In proposing the above definition the FDIC indicated that it was not necessarily implying that any association between a bank and its securities subsidiary in the public's mind could harm the reputation of the bank but rather that the FDIC was attempting to ensure the separateness of the subsidiary and the bank. Inasmuch as the bank would be prohibited by the Glass-Steagall Act from engaging in many activities the subsidiary might undertake, the separation is essential. If a bank's subsidiary is not sufficiently distinct from its parent, the subsidiary may be found to be an alter ego or a mere instrumentality of the bank and the bank held to be engaging in securities activities in violation of the Glass-Steagall Act. The definition was also designed to ensure the separateness of the subsidiary from the bank as a means of safeguarding the soundness of the parent bank. As stated in the proposal, "the parent bank is less likely to be harmed if the subsidiary has adequate capital and thus can itself absorb losses as well as liabilities arising from the securities operation."

The proposed regulation adopts a definition of "bona fide subsidiary" that is substantially the same as that which was originally proposed for comment with a few significant revisions. The proposed definition retains the requirement found in the May 1983 proposal that the subsidiary be adequately capitalized. This requirement was generally viewed as proper by those commenting on the May 1983 proposal. The Investment Company Institute ("ICI") in commenting unfavorably on the May 1983 proposal did, however, opine that the parent bank could not be sufficiently insulated from the subsidiary's financial losses nor the possibility of liability under the securities laws regardless of to what degree the subsidiary is capitalized. After considering this comment, we agree that a parent bank may be considered a "controlling person" of the securities subsidiary and thus *potentially* subject to liability to the same extent as the subsidiary for any violations of the securities laws on the part of the subsidiary. That liability is not absolute, however. The bank as a "controlling person" may not be liable if it had no knowledge of the circumstances which gave rise to the violation, the bank acted in good faith, and the bank did not directly or indirectly induce the violation. We therefore have concluded that it is possible to structure the relationship between a parent bank and its subsidiary to avoid or lessen the bank's exposure under the securities laws for the acts of the subsidiary.

Although the proposed regulation requires that the subsidiary be adequately capitalized, it does not define what constitutes adequate capital. No definition has been incorporated in the proposed regulation as the adequacy of any particular subsidiary's capital can vary from a safety and soundness point of view. The FDIC maintains the position previously stated in the May, 1983 proposal that the bank's subsidiary must, at a minimum, comply with any applicable capital requirements imposed by the Securities and Exchange Commission ("SEC") or imposed under State law. That level of capital is merely a starting point, however, and the FDIC reserves the right to determine that the subsidiary's activities and/or the parent bank's condition warrant that the subsidiary be capitalized over and above any such requirement. It is FDIC's intention to make this assessment during the "notice" period (see subsection (d) of the proposed regulation discussed below) and to inform the bank at that time whether in FDIC's opinion the capital position of the subsidiary is adequate. It is FDIC's belief that such a flexible approach will better serve FDIC's supervisory interest in maintaining the safety and soundness of insured nonmember banks.

The proposed definition also retains the requirement found in the May, 1983 proposal that the subsidiary maintain separate accounting and other corporate records and that the subsidiary observe separate formalities such as separate board of directors' meeting. Also retained is the requirement that the subsidiary maintain separate employees who are compensated by the subsidiary. In addition, however, bank employees will be permitted, under the proposal, to perform so-called "back office" operations (such as accounting, data processing, and recordkeeping), provided the bank is fully compensated for such services in an arm's-length transaction. Comment is specifically directed to whether the language in footnote 4 of the proposed regulation which contains this exception can or should be further clarified.

The separate employee requirement was criticized in a substantial number of comments in response to the May, 1983 proposal. The comments observed that the requirement would be costly and inefficient, would prevent the bank subsidiary from entering the securities area slowly, and would prevent the bank from making available to the subsidiary the expertise of bank personnel already familiar with securities operations. The FDIC acknowledges that the separate employee requirement can produce some additional costs to insured

nonmember banks but anticipates that the exception contained in the proposed regulation for back office operations (i.e., allowing bank employees to perform administrative, noncustomer contact type activities) reduces the inefficiency and added costs that might otherwise be produced. The requirement has also been retained in the proposed regulation as it is felt that the use of separate employees in customer contact positions is an extremely important factor in maintaining the separate corporate identity of the subsidiary and the bank. Comment is specifically requested concerning the separate employee requirement and the "back office" exception and the problems, ramifications, and burdens, etc. that might be associated therewith.

The proposed regulation retains the basic requirement as set forth in the May, 1983 proposal that the subsidiary's operation be separate from the operation of the bank. The wording has been changed to require that "physically separate" operation of a subsidiary means the securities subsidiary is not located on the same floor of a banking building where deposits are received. FDIC's purpose in changing the wording of the definition is to more clearly demarcate the bank's depository business from its subsidiary's securities business and to prevent customer confusion regarding the separation. As several commenters expressed concern over the requirement for a physically separate facility and recommended that a separate facility is not necessary so long as the manner in which the subsidiary's operation is conducted makes clear to the customer with whom he or she is dealing, we are specifically inviting comment on the problems, ramifications, and burdens that the above restriction might generate. The FDIC also particularly invites comments on whether sufficient separation can be maintained without requiring "physical separation", and, if so, how such a distinction of operations could be maintained if the same physical quarters were used for both operations. Lastly, in order to clearly provide that the subsidiary's operations be distinct from the parent bank's, the proposed definition of bona fide subsidiary has been reworded to require that the subsidiary "conduct business pursuant to policies and procedures independent from the bank so that customers of the subsidiary are aware that the subsidiary is a separate organization from the bank and that investments recommended, offered or sold by the subsidiary are not bank deposits, are not insured by the FDIC, and are not guaranteed by the bank nor are otherwise obligations of the bank."

The proposed definition expressly requires that the subsidiary not share a common name or logo with the bank. Name identification is a factor used by the courts in deciding whether to pierce the corporate veil, is a factor in public identification of the securities operation with the bank, plays a role in the public's misconception as to the insured status of investments placed with the subsidiary, and plays a role in engendering an expectation that the bank is liable for the obligations of the subsidiary. Additionally, as stated in one comment, a bank may be reluctant to allow a subsidiary to fail if that subsidiary carries the bank's name. For these reasons the FDIC continues to propose to prohibit the use of a common name or logo with the bank despite comments urging that we not do so. Furthermore, the FDIC does not feel at this time that the above restriction will competitively harm insured nonmember bank subsidiaries. We wish to specifically direct comment, however, to what problem, ramifications, burdens etc. might be generated by prohibiting the use of common names or logos.

Insured nonmember banks should note that if the subsidiary *only* conducts activities that the bank itself could conduct, the need for the subsidiary to not be identified with the bank in order to avoid a Glass-Steagall Act violation is eliminated. The FDIC, however, still intends at this time to require that there be sufficient differentiation between the bank and its subsidiary in its name, advertisements, promotions, etc. so as to avoid any public misconception as to the insured status of any accounts or other investments held by the subsidiary.

The proposed definition also requires that the subsidiary not share common officers with the bank and that a majority of its board of directors not be directors or officers of the bank. The officer/director requirement is being expressly added to the proposed definition in order to: (1) Ensure that the subsidiary operates idependently from the parent bank, and (2) reduce the likelihood under the "controlling person" doctrine (see above) that the parent bank may be held liable for any securities laws violations on the part of the subsidiary. We would like to receive comment on the problems, ramifications, burdens, etc. that the requirement might generate.

2. Underwriting

The May 1983 proposal would have prohibited an insured nonmember bank from establishing or acquiring a subsidiary that underwrites securities unless the subsidiary's underwriting activities in which the bank itself could not lawfully engage were limited to: (1) The underwriting of investment quality debt securities (either on a firm commitment or best-efforts basis); (2) the underwriting of money market fund type mutual funds; and/or (3) the underwriting of any security other than an investment quality debt security (e.g., equity securities) on a best-efforts basis. The term "investment quality debt security" was defined in the May, 1983 proposal as a marketable obligation in the form of a bond, note, or debenture the investment characteristics of which are not predominantly speculative. The definition specifically included obligations rated by a nationally recognized rating service that were rated in the top four rating categories. As stated in the May, 1983 proposal, FDIC's intent in limiting equity underwriting to a best-efforts basis was to insulate the parent bank from whatever risks might be associated with those underwritings. The insulation presumably would result from the fact that the best-efforts underwriter does not agree to purchase any unsold portion of an issue but only agrees to use best-efforts to sell the securities.

A substantial portion of the overall comments the FDIC received in regard to the May, 1983 proposal were directed to the provision described above. A number of comments objected to the decision to differentiate in the treatment of insured nonmember bank subsidiaries depending upon the type of of securities underwritten by the subsidiary. These comments went on to express the view that the critical factor is not the activity conducted by the subsidiary, but rather how well the subsidiary is capitalized, the level of experience of its personnel, and whether or not the subsidiary follows prudent management practices. These comments, as well as others, advised the FDIC to permit debt and equity underwriting on a firm commitment basis and to eliminate the best-efforts restriction. The reasons cited were: (1) Retaining the best-efforts restriction will effectively preclude insured nonmember bank subsidiaries from the equity underwriting market; (2) a firm commitment underwriting is arguably less risky than a best-efforts underwriting as traditionally only marginal issues are underwritten on a best-effort basis; and (3) practically speaking, there is no greater risk in a firm commitment underwriting than in a best-efforts underwriting as, in the case of the former, most of the issue is presold.

Most of the comments addressing the best-efforts issue (as well as SEC Commissioners Shad and Longstreth in their testimony before Congress) criticized the best-efforts restriction. The criticism primarily focused on the fact that rather than protecting the parent bank, the best-efforts restriction could potentially harm the bank. That criticism can be summarized as follows: (1) The restriction will force nonmember banks to be identified through their subsidiaries with marginal firms that have a greater failure rate and whose securities are typically of a lower quality; (2) as it is customary for underwriters to make after-markets, the bank's subsidiary may end up purchasing the securities even though it is not contractually obligated to do so; (3) as the nonmember bank's subsidiary could not effectively compete if the best-efforts restriction is retained, the subsidiary may find ways around the restriction and thus expose the bank to greater risks; and (4) best-efforts underwriting will expose the bank's subsidiary to due diligence litigation.

The FDIC also received comments to the May, 1983 proposal as follows: (1) The ban on mutual fund underwriting is too restrictive, (2) the FDIC should permit insured nonmember banks to underwrite mutual funds that invest in top quality equity securities and top quality debt securities, (3) the loss experience associated with underwriting equity issues is no greater than that associated with underwriting debt issues, and (4) several comments (including the comments of SEC Commissioner Shad in his Congressional testimony) indicating that debt issues are not risk free as modest market declines can eliminate the underwriting spreads on investment quality debt issues. With the exception of comments falling within item four, and putting aside the comments that challenged the entire rulemaking posture (the FDIC received nine such comments), FDIC did not receive any comments suggesting that bank subsidiaries should be precluded from underwriting investment quality debt securities.

The FDIC proposed regulation reflects several revisions that are based upon the above comments. The proposed regulation permits an insured nonmember bank to establish or acquire a subsidiary that underwrites investment quality debt securities, underwrites investment quality equity securities (see discussion in paragraph 3 below), underwrites mutual funds that invest exclusively in investment quality equity securities and/or investment quality debt securities, and/or underwrites money market fund type mutual funds. The proposed regulation thus eliminates the catch-all found in the May, 1983 proposal that would have permitted the bank's subsidiary to underwrite any security on a best-efforts basis. The FDIC was convinced upon a reading of the comments that the best-efforts aspect of the May, 1983 proposal would not have provided the insulation to insured nonmember banks that it was intended to provide. Inasmuch as the restriction did not appear to provide any benefit to insured nonmember banks, but in fact may have been detrimental, the restriction has been eliminated in the proposed regulation.

While the proposed regulation still permits equity underwriting, it is actually more conservative than the May, 1983 proposal in that it limits the ability of the bank's subsidiary to underwrite securities solely to investment quality equities. Such securities are normally traded on an exchange thus eliminating the problem raised by several comments that, as an underwriter, the bank subsidiary may be forced to make an after-market for the securities it underwrites. Even if the subsidiary were to do so, as the only securities that may be underwritten are high quality securities, the market making should not create any undue risk.

By permitting the bank's subsidiary to underwrite mutual funds that invest exclusively in one or both types of investment quality securities the proposed regulation is simply treating the activity as an indirect underwriting of securities eligible for direct underwriting. The proposed regulation would not permit the underwriting of mutual funds that are more speculative in nature; *i.e.*, whose value per share tend to fluctuate due to the nature of the investments (commodities, future contracts, oil leases). Nor would the proposed regulation permit the bank's subsidiary to underwrite any debt or equity security if that security is not of investment quality.

The proposed regulation does not restrict a nonmember bank's affiliation with a securities company depending upon the activities conducted by that company as it does in the case of the bank's subsidiary. The FDIC did receive one comment in response to the May, 1983 proposal stating that the need to limit underwriting is just as important in the case of affiliates as in the case of a bank subsidiary. The FDIC is still of the opinion, however, that there is less of a possibility that losses suffered by the bank's parent or sister affiliate due to underwriting activities will adversely impact the bank. This is so especially if the parent's ability to move funds out of the bank is limited as under the proposed regulation.

3. Investment Quality Debt Security/ Investment Quality Equity Security

The May, 1983 proposal defined the term "investment quality debt security" to mean a marketable obligation in the form of a bond, note, or debenture the investment characteristics of which are not predominantly speculative and was specifically said to include obligations rated in the top four rating categories by a nationally recogized rating service. The definition as revised in the proposed regulation reads as follows: " 'Investment quality debt security' shall mean a marketable obligation in the form of a bond, note, or debenture that is rated in the top four rating categories by a nationally recognized rating service or a marketable obligation in the form of a bond, note, or debenture the investment characteristics of which are equivalent to the investment characteristics of such a top rated obligation." The revised proposed definition responds to comments to the May, 1983 proposal that the phrase "speculative investment characteristics" is overly vague and to comments which indicated that by limiting the definition of investment quality debt securities to rated securities, the FDIC may foreclose access to capital markets by smaller companies. The revised proposed definition allows a bank subsidiary to underwrite debt securities that are of comparable quality to highly rated debt securities. As the nonrated debt obligations must still be of high quality in order for the bank's subsidiary to engage in the underwriting, the FDIC does not feel that the change in the definition will expose the parent bank to any additional risks.

The proposed regulation defines the term "investment quality equity security" to mean a marketable common or preferred corporate stock that is rated medium grade, average, or better by a nationally recognized rating service. As the science of rating equity securities is not as precise as the science of rating debt securities, nor is it as developed, the proposed definition of investment quality equity security does not contain a similar reference to nonrated equities that have equivalent investment characteristics to top rated equities. Although this definition will permit insured nonmember bank subsidiaries less flexibility in the underwriting of equity securities, the FDIC feels that this prudential restriction is warranted.

4. Filing of Notice

The proposed regulation retains the requirement found in the May, 1983 proposal that the bank give the appropriate FDIC regional office written notice of intent to establish or acquire a subsidiary that engages in any securities activity at least 60 days prior to consummation of the acquisition or commencement of the operation of the subsidiary, whichever is earlier. The proposed regulation also requires that in addition to the 60-day advance notice, a bank must file a written follow-up notice with the appropriate FDIC regional office within 10 days after the acquisition is consummated or the subsidiary commences operation, whichever is earlier. The proposed regulation does not specify the content of the written notice of intent. By not specifying the content of the notice, the FDIC is permitting a bank to satisfy the notice requirement in any way it finds most convenient. For example, if the subsidiary will be registered with the SEC, a copy of the SEC filing may simply be forwarded to the appropriate FDIC regional office. The FDIC is thus rejecting several comments in response to the May 1983 proposal which suggested that the content of the notice be specifically set forth in the regulation.

The notice provision in the proposed regulation contains one additional requirement not contained in the May 1983 proposal. Where the 60-day advance notice pertains solely to an instance where a bank transfers to its subsidiary securities activities previously performed by the bank, the bank is required under the proposed regulation to file an additional notice with the regional office if the subsidiary expands into restricted activities; *i.e.*, the underwriting activities referenced in subparagraph (b)(1)(i) of the proposed regulation. This notice serves as a supervisory mechanism which will apprise FDIC of which insured nonmember banks are conducting securities activities through their subsidiaries which pose potential risks to which the bank would not otherwise be exposed. The subsequent notice is a one-time notice; *i.e.*, the first time the subsidiary commences any activity covered by subparagraph (b)(1)(i), notice must be filed. No subsequent notice is required if the subsidiary later begins another covered underwriting activity that was not the activity which triggered the above notice.

It is the FDIC's intent to use the notices required by the proposed regulation as a point of reference. The regional office will contact the bank seeking further information if the bank's condition or other facts warrant a closer review. It is for this reason that the proposed regulation requires that the initial notice be received at least 60 days in advance. The 60-day notice can be waived at the FDIC's discretion where such period is impractical; *e.g.*, where the acquisition is the result of a purchase and assumption transaction or an emergency merger. The subsequent notice must be received in the regional office within 30 days after the subsidiary commences the triggering underwriting activity. Prior notice is not required in this instance as it was felt to do so would be too impractical and would interfere unduly in the day-to-day operations of the subsidiary. None of the proposed notice requirements are an approval process although the FDIC would not be precluded from intervening in an intended acquisition or establishment of a subsidiary or from objecting to the expansion of activities if such intervention or objection were warranted, for example, if the subsidiary would not appear to meet the requirements for a bona fide subsidiary or the bank's investment in the subsidiary would appear to exceed the limits set by the proposed regulation.

The proposed regulation does not require a written notice when a bank becomes affiliated with a securities company. For the most part, affiliation with a securities company will arise out of a change in bank control or come to FDIC's attention when a bank seeks deposit insurance. As the FDIC will become aware of the affiliation prior to consummation in both instances, there is no need to create an additional notice requirement.

5. Lending Restrictions

The May 1983 proposal contained a number of restrictions designed to prevent abuse of a bank's credit facilities. As stated in the preamble to the May, 1983 proposal, such abuse can arise in several ways; *e.g.*, the making of imprudent loans to companies whose securities are underwritten or distributed by the bank's subsidiary or affiliate in an effort to improve the condition of the company and thus the marketability of the company's securities. The May 1983 proposal would have prohibited a bank from: (1) Making extensions of credit to any company whose securities are currently underwritten or distributed by the bank's subsidiary or affiliate unless those securities are rated in the top four rating categories by a national recognized rating service, (2) making any extension of credit to a money market fund currently underwritten or distributed by the bank's subsidiary or affiliate, (3) making any extension of credit where the proceeds are to be used to acquire securities currently underwritten or distributed by the bank's subsidiary or affiliate, (4) accepting securities currently underwritten or distributed by the bank's subsidiary or affiliate as collateral on an extension of credit, (5) making any extension of credit to its securities subsidiary or affiliate that does not comport with the restrictions contained in section 23A of the Federal Reserve Act, and (6) making any extension of credit to any investment company advised by the bank's subsidiary or affiliate if the extension of credit does not comport with section 23A of the Federal Reserve Act.

The proposed regulation makes a number of changes to this portion of the May 1983 proposal. The prohibition on a bank lending to companies whose nonrated securities are underwritten or distributed by the bank's subsidiary found in the May 1983 proposal has not been retained. As the proposed regulation does not permit the bank's subsidiary to underwrite securities unless the securities are of investment quality, the restriction as it was earlier proposed is no longer necessary; *i.e.*, the concern that the bank may make imprudent loans to companies whose low quality securities are being underwritten by the bank's subsidiary in order to improve the marketability of the companies' securities is no longer present. The restriction found in the May 1983 proposal on extensions of credit to companies whose low quality securities are underwritten or distributed by the bank's affiliate has been retained, however, as the proposed regulation does not contain a similar requirement that the bank's affiliate solely underwrite investment quality securities. Thus, under the proposed regulation, a bank cannot make any extensions of credit to a company whose securities are currently underwritten or distributed by the bank's affiliate if those securities are not of investment quality.

Five comments received in response to the May, 1983 proposal expressed the opinion that the lending restriction as it was then proposed would serve only to constrict credit sources for smaller firms whose securities are not rated by a nationally recognized rating service. The proposed revision of the definition of investment quality debt security to include unrated debt obligations of comparable quality to highly rated debt obligations is an effort to be responsive to these comments. (See discussion in

paragraph 3.) FDIC does not feel that the broadened definition will reduce the effectiveness of the lending restriction as the unrated debt securities must still be high quality in order for the company to be eligible for loans from the bank. The proposed regulation will still prohibit the bank from making extensions of credit to companies whose unrated and/or poorly rated equity securities are underwritten or distributed by the bank's affiliate.

In response to a comment to the May, 1983 proposal, a footnote has been added to the proposed regulation indicating that paragraph (e)(3) is not to be construed to prohibit the bank from honoring a loan commitment or revolving loan agreement, or funding a line of credit, where such were entered into prior in time to the underwriting or distribution. Finally, all of the restrictions contained in subsection (e) that use the phrase "any security *currently* being distributed or underwritten" [emphasis added] have been footnoted in response to several comments in response to the May, 1983 proposal requesting that the relevant time period be more clearly defined. The footnote provides that in complying with the provisions of the proposed regulation which reference a current distribution or current underwriting, the bank may rely upon the affiliate's or subsidiary's statement that the underwriting or distribution of any particular security has terminated.

The proposed regulation retains the prohibition found in the May, 1983 proposal on a bank making any extension of credit or loan directly or indirectly to any money market fund or mutual fund whose shares are currently being underwritten or distributed by a subsidiary or affiliate of the bank. For purposes of clarity, both restrictions are expressly set forth in paragraph (e)(4) of the proposed regulation. As stated in the preamble to the May, 1983 proposal, FDIC considered exempting mutual funds and money market funds from the reach of the lending restriction. Such an exemption was rejected, however, inasmuch as the credit needs of such funds are most likely to arise when the fund is having liquidity problems. If interest rates should rise sharply and large numbers of shareholders, especially institutional investors, redeem their shares to put their money directly into higher paying investments, a fund could face a liquidity crisis. A bank may thus be tempted to make an unsound loan to the fund in order to prevent the fund from suffering a loss by selling portfolio assets at a depressed price to meet liquidity needs. As the FDIC received no comments critical of the restriction, and it is still our opinion that the restriction is warranted, it has been retained in the proposed regulation. Money market funds have been targeted within that prohibition despite their relative stability as at present there is no self-regulatory organization such as the National Association of Securities Dealers ("NASD") to watch-dog money market funds.

The May, 1983 proposal contained a prohibition on a bank accepting as collateral on a loan or extension of credit securities of any company whose securities are currently being distributed or underwritten by the bank's subsidiary or affiliate or accepting as collateral any shares currently being distributed or underwritten by an investment company advised by the bank's subsidiary or affiliate. The proposed regulation has deleted the restriction on the acceptance of collateral in response to several comments which indicated that there was no need to impose such a restriction if the loan was in no way connected with the underwriting or the distribution.

The proposed regulation retains the restriction on a bank extending credit for the purpose of acquiring securities currently being underwritten or distributed by the bank's subsidiary or affiliate, securities issued by an investment company advised by a bank's subsidiary or affiliate, or securities issued by the bank's subsidiary or affiliate. The proposed restriction contains a new exception, however, that would permit the bank to extend credit to any employees of the subsidiary or affiliate where the purpose of the loan is to acquire securities of the subsidiary or affiliate through an employee stock bonus or stock purchase plan adopted by the board of directors or board of trustees of the subsidiary or affiliate. This exception, and a footnote indicating that the bank may rely in good faith on the customer's statement as to the purpose of the loan, are being proposed in response to several comments in response to the May, 1983 proposal.

The wording of the purpose lending restriction has been slightly modified in the proposed regulation. It now refers to securities *issued* by an investment company advised by the bank's subsidiary or affiliate. The reference to securities "underwritten or distributed" by an investment company has been deleted. A comment in response to the May, 1983 proposal pointed out that investment companies normally do not underwrite or distribute their own securities and that therefore the references in the May, 1983 proposal to securities underwritten or distributed by an investment company were inaccurate. Corresponding changes have been made in other portions of the proposed regulation which refer to investment companies advised by the bank's subsidiary or affiliate.

The proposed regulation retains the provision found in the May, 1983 proposal that subjects extensions of credit to the bank's subsidiary to the same loan ceiling and other restrictions as would be applicable under section 23A of the Federal Reserve Act if the subsidiary were an affiliate for the purposes of that statute. The proposed regulation also retains the restriction which subjects extensions of credit to an investment company advised by a bank's subsidiary to the same loan ceiling and other restrictions that would be applicable under section 23A of the Federal Reserve if the subsidiary were an affiliate within the meaning of section 23A. As loans or extensions of credit to the bank's affiliate as that term is defined in the proposed regulation are already covered by the language of section 23A, placing affiliates under the restrictions of paragraph (e)(6) will not establish any additional requirements. Additionally, as section 23A covers extension of credit to investment companies advised by the bank's affiliates, placing affiliates under the restriction of paragraph (e)(7) will not establish any additional requirements. In response to comments on these two provisions received in response the exemptions contained in section 23A as well as the restrictions. Additionally, paragraph (e)(6) has been clarified to indicate that it does not operate to modify the investment restriction contained in paragraph (b)(2) of the proposed regulation. (See discussion in paragraph 7 below.)

6. Trust Department Restrictions

The May, 1983 proposal contained a provision that would have prohibited an insured nonmember bank which has a subsidiary or affiliate that engages in the sale, distribution or underwriting of stocks, bonds, debentures, notes or other securities or acts as an investment adviser to any investment company that sells, distributes, or underwrites any such security, from purchasing in its sole discretion as fiduciary or co-fiduciary any security currently being issued, distributed, or underwritten by that subsidiary or affiliate or purchasing in its sole discretion any security currently being distributed, underwritten, or issued by any investment company

advised by the subsidiary or affiliate. The May, 1983 proposal also would have prohibited an insured nonmember bank for transacting business through its trust department with its securities subsidiary or affiliate unless the transactions are comparable to transactions with an unaffiliated securities company or a securities company that is not a subsidiary of the bank.

The FDIC received relatively few comments regarding these two proposed restrictions, the first of which was designed to curtail the dumping of poor issues into the trust department. Two comments indicated that the restrictions, were unnecessary as they were simply a restatement of common law. One comment indicated that the proposal was too restrictive. One comment indicated that the proposed restrictions were satisfactory. Three comments, including that of SEC Commissioner Shad, suggested that the trust department should be entirely prohibited from dealing with its securities subsidiary or affiliate. One comment suggested that the phrase "in its sole discretion" be clarified.

The proposed regulation permits insured nonmember banks to purchase, as fiduciary, securities currently distributed, underwritten or issued by the bank's subsidiary or affiliate or currently issued by an investment company advised by the bank's subsidiary or affiliate where those purchases are expressly authorized by the trust instrument, court order, or local law, or specific authority for the purchase is obtained from all interested parties after full disclosure. The language change adds clarity to the provision and is, at the same time, consistent with the common law obligation of a fiduciary to refrain from self dealing in the administration of a trust account. It is also consistent with statements regarding trust department examinations found in FDIC's Manual of Examination Policies. The FDIC is preliminary rejecting as overly broad the suggestion that the trust department be prohibited entirely from dealing with the bank's securities subsidiary or affiliate. We recognize the possibility for some abuses and the potential for conflicts of interest in the administration of trust accounts, however, we are presently of the opinion that the restriction contained in the proposed regulation should adequately protect against such abuses and conflicts of interest.

The proposed regulation retains the provision found in the May, 1983 proposal indicating that the bank shall not transact business through it's trust department with its securities subsidiary or affiliate unless the transactions are comparable to transactions with unaffiliated securities companies or a securities company that is not a subsidiary of the bank. This requirement will help to insulate the bank from the possibility that its securities affiliate will drain off profits from the bank by setting a higher than normal fee for executing transactions. The proposed regulation will not prohibit a bank trust department from using the broker/dealer services of its subsidiary or affiliate to execute transactions on behalf of its fiduciary accounts. The decision to utilize the related broker/dealer must, however, fully comport with the bank's fiduciary obligation to its trust department customer and must be fully disclosed.

7. Investment Ceiling

The proposed regulation restricts an insured nonmember bank's direct and indirect investment in one or more securities subsidiaries to 20% of the bank's equity capital unless the FDIC approves a greater investment. This provision is essentially the same as was proposed for comment in May, 1983; *i.e.* the 20% of equity capital test has been retained with one change. The term investment has been clarified by the addition of the phrase "direct and indirect." The proposed regulation thus places a limit on a bank's subsequent extensions of credit to its subsidiary. The total figure cannot exceed 20% of the bank's equity capital. The limit is subject, however, to any lesser investment cap established by State law.

While none of the comments addressing the proposed investment limitation as contained in the May, 1983 proposal criticized restricting a nonmember bank's investment in a securities company, several expressed the view that a 20% ceiling was high. The 20% ceiling has been retained in the proposed regulation, however, as the limitation covers direct investments as well as subsequent extensions of credit. The provision operates in tandem with paragraph (e)(6) which requires that extensions of credit by an insured nonmember bank to its securities subsidiary conform to the requirements as to amount, collateral, etc. found in section 23A of the Federal Reserve Act. If, for example, the bank's direct investment in its subsidiary equals 10% of the bank's equity capital, the bank may make an additional indirect investment in the subsidiary by way of one or more extensions of credit not exceeding in the aggregate an additional 10% of the banks equity capital. If, however, the bank's direct investment equals 5% of the bank's equity capital, paragraph (e)(6) would still restrict the bank's subsequent permissable extensions of credit to 10% of the bank's equity capital as section 23A of the Federal Reserve Act establishes a lending cap of 10%. Furthermore, the bank's direct investment in the subsidiary may range up to 20% of the bank's equity capital. If such were the case, however, the bank could not make any extensions of credit to the subsidiary under paragraph (e)(6).

The investment limitation in the proposed regulation is designed to create a buffer between the operation of a bank's subsidiary (or subsidiaries) and the bank in addition to the buffer provided by the subsidiary's capital position. Although the FDIC will have the authority under section 10 of the FDI Act (12 U.S.C. 1820) to examine the affairs of the securities subsidiaries or affiliates as shall be necessary to disclose fully the relations between the bank and those subsidiaries or affiliates and the effect of such relations upon the bank, the FDIC does not actually "supervise" the subsidiaries or affiliates. It will be difficult for the FDIC to accurately judge the adequacy of a subsidiary's capital from a safety and soundness point of view on a daily basis, especially as factual cricumstances may vary. The FDIC has therefore determined that the possibility of adverse impact to the bank should the subsidiary fail or suffer extreme loss is appropriately limited by placing a ceiling on the bank's investment in the subsidiary.

As reflected in what is now a footnote to paragraph (b)(2), the bank's direct investment in the securities subsidiary will not be counted toward the bank's regulatory capital. This provides the FDIC with an enforcement tool to help safeguard the bank's safety and soundness. If, for example, the FDIC should determine after receiving notice under subsection (d) that an insured nonmember bank's equity capital is not adequate after making the necessary adjustments indicated in footnote 5, the bank would not be able to proceed with the acquisition or establishment of the the subsidiary.

8. Affiliation With a Securities Company

The proposed regulation prohibits an insured nonmember bank from becoming affiliated with a securities company unless: (1) The securities business of the affiliate is physically separate in its operation from the operation of the bank and does not operate on the same floor of a building on which the bank receives deposits; (2)

the bank does not share common officers with the affiliate; (3) a majority of the board of directors of the bank is composed of persons who are neither directors nor officers of the affiliate; (4) any employee of the affiliate who is also an employee of the bank does not conduct any securities activities on behalf of the affiliate on the premises of the bank that involve customer contact; (5) the bank and affiliate do not share a common name or logo; and (6) the affiliate conducts business pursuant to policies and procedures independent from the bank so that customers of the affiliate are aware that the affiliate is a separate organization from the bank and that investments recommended, offered or sold by the affiliate are not bank deposits, are not insured by the FDIC, and are not guaranteed by the bank nor are otherwise obligations of the bank.

The May, 1983 proposal only required that the securities business of the bank's affiliate be "kept separate and distinct from the banking business of the insured nonmember bank". The FDIC did not necessarily mean to imply that the affiliate could more closely mingle its operations with the bank than could the bank mingle operations with its subsidiary. The FDIC is therefore specifically proposing restrictions that parallel those set forth for subsidiaries. The FDIC feels that the restrictions are as warranted in the case of an affiliate as in the case of a subsidiary. The restrictions would appear necessary in order to avoid customer confusion, to avoid conflicts of interest, to avoid a finding that the bank is itself engaged in prohibited securities activities, and to avoid a finding that the affiliated securities company is taking deposits in violation of section 21 of the Glass-Steagall Act. If the FDIC approves deposit insurance for a newly chartered bank whose parent is a securities company and the bank is so closely intertwined with its parent that one could find the parent securities company is taking deposits, the FDIC would, by its action, countenance a violation of the Glass-Steagall Act. The FDIC is specifically interested in receiving comment on the necessity of these restrictions and is especially interested in receiving comment addressing the problems, ramifications, burdens, etc. that might be associated with the director/officer restrictions and prohibition on the use of common names or logos.

9. Tying

The proposed regulation contains a prohibition on an insured nonmember bank either directly or indirectly conditioning an extension of credit to any company on the requirement that the company contract, or agree to contract, with the bank's subsidiary or affiliate to underwrite or distribute that company's securities. The provision also prohibits a bank from conditioning an extension of credit to any person on the requirement that that person purchase any security currently underwritten or distributed by the bank's subsidiary or affiliate. Although insured nonmember banks that are part of a bank holding company system are subject to similar anti-tying restrictions under the Bank Holding Company Act Amendments of 1970, that Act would not seem to cover banks that are not held by bank holding companies in that the restrictions cover the tying of a loan with some additional credit, property, or service from the bank, the bank's holding company, or any other subsidiary of the bank's holding company. (12 U.S.C. 1972). The restriction in the proposed regulation fills that gap and serves as a reminder to all insured nonmember banks not to engage in unlawful tying practices. As a large number of insured nonmember banks are held by bank holding companies, the imposition of this requirement would not represent a major change from the status quo.

10. Construction of the Terms "Underwrite", "Distribute", and "Security"

It is not FDIC's intent by proposing this regulation to prevent an insured nonmember bank subsidiary from engaging in any securities underwriting activity that the insured nonmember bank may itself lawfully pursue under the Glass-Steagall Act. Those activities are set forth in 12 U.S.C. 24 (Seventh) and include underwriting obligations of the United States, general obligations of any state or political subdivision thereof, and numerous other obligations specifically named therein. Insured nonmember banks should keep in mind that the terms "underwrite" and "distribute", and the phrase "stocks, bonds, debentures, notes, or other securities" are to be construed consistently with the securities laws and regulations except where the context requires otherwise. A securities subsidiary or affiliate of an insured nonmember bank while engaged in the conduct of securities activities will be subject to the securities laws and regulations, the oversight of the SEC, and oversight by entities such as the NASD. The above terms are therefore to have the meaning proscribed by the securities laws and regulations when used in connection with the subsidiary or affiliate. References in the proposed regulation to these terms as used in conjunction with an insured nonmember bank (see subparagraph (b)(1)(i), and subsections (f) and (g)) are to be construed consistently with the Glass-Steagall Act.

The courts have repeatedly stated that the prohibitions of the Glass-Steagall Act are to be defined with reference to the purposes of that statute and that the definitions of the terms used therein (*i.e.*; distribute, underwrite, security) do not necessarily coincide with the definition of the same terms as used in the securities laws. (See *A. G. Becker, Inc.* v. *Board of Governors of the Federal Reserve System*, 693 F.2d 136 (D.C. Cir. 1982) *cert. granted*, 52 U.S.L.W. 3262 (October 4, 1983); *National Association of Securities Dealers Inc.* v. *Securities and Exchange Commission*, 420 F.2d 83 (D.C. Cir. 1969); *New York Stock Exchange Inc.* v. *Smith*, 404 F.Supp. 1091 (D.D.C. 1975), *vacated on other grounds*, 562 F.2d 736 (D.C. Cir. 1977)). The FDIC therefore intends to utilize a functional analysis in determining whether a particular activity constitutes underwriting or distributing of a security under the Glass-Steagall Act.

11. Definition of "Affiliate", "Subsidiary", and "Extension of Credit"

The proposed regulation defines the term "affiliate" essentially as found in the May, 1983 proposal; *i.e.*, to mean a company that directly or indirectly controls an insured nonmember bank and any company that is in turn controlled by such a company. The proposed regulation has expanded the definition of affiliate, however, from that found in the May, 1983 proposal to cover a company controlled by a person or group of persons that controls an insured nonmember bank. "Control" is defined as the power to directly or indirectly vote 25 percent of a bank's or company's stock, the ability to control the election of a majority of a bank's or company's directors or trustees, or the ability to exercise a controlling influence over the management and policies of a bank or company. Again, this definition has not changed from the May, 1983 proposal. At a minimum, the proposed regulation treats as affiliates of the bank a bank's parent company, a company that controls 25 percent or more of the bank's stock, and companies controlled by either of the above.

The term "subsidiary" is defined in the proposed regulation to mean a company controlled by a bank. The remainder of the definition as proposed in May, 1983 which would have included as a subsidiary any company a majority of whose directors or trustees are

directors or trustees of an insured nonmember bank has been deleted. This language has been dropped inasmuch as the term "bona fide subsidiary" as contained in the proposed regulation prohibits the bank's subsidiary from sharing a majority of its directors and officers with the bank if the subsidiary conducts securities activities that the bank could not itself conduct. As "company" is defined in the proposed regulation to include corporations other than banks, patnerships, business trusts, associations, joint ventures, pool syndicates or other similar business organizations, a securities company operated by several banks in a co-operative effort can be considered a subsidiary of each of the banks. Although it is possible for a mutual fund (*i.e.*; a business trust) to be a subsidiary of the bank if controlled by the bank, we anticipate that this will not generally be the case. The term "extension of credit" has generally the same meaning as found in Federal Reserve Board Regulation O (12 CFR 215.3) which concerns insider transactions. The term as defined herein, however, covers purchases "whether or not under repurchase agreement" of securities, other assets, or obligations. The "whether or not" language has been included in the proposed regulation in an attempt to control the extent to which a bank may indirectly pour money into the subsidiary by means of purchasing securities and other assets from the subsidiary. Lastly, the May, 1983 proposal covered the "grant" of a line of credit as an extension of credit whereas the proposed regulation covers a "draw" upon a line of credit as an extension of credit rather than simply the grant.

12. "Phase Out" Provision

The proposed regulation requires all insured nonmember banks that established or acquired securities subsidiaries prior to the effective date of the regulation or which became affiliated with securities companies prior to the effective date of the regulation to bring themselves into compliance with the regulation within two years. Any bank that established or acquired a securities subsidiary prior to the relevant date must, however, comply with § 337.4(b)(1)(ii) and §§ 337.4(c) and 337.4(e) as soon as practicable. Section 337.4(b)(1)(ii) requires that the subsidiary be a bona fide subsidiary if it conducts activities not permitted to the bank under the Glass-Steagall Act. § 337.4(c) pertains to affiliations with securities companies, and § 337.4(e) places lending and other restrictions on the bank. The proposed regulation also requires that any insured nonmember bank that is subject to the phase-out provisions established by the regulation must inform the FDIC in writing within thirty days from the effective date of the regulation that it has a subsidiary or affiliate that conducts securities activities. This notice will provide FDIC with a mechanism to monitor compliance with the phase out requirement. The FDIC is specifically requesting comment addressing two issues: (1) Is immediate compliance more appropriate than a phase out provision in view of FDIC's stance that the restricted activities may pose a safety or soundness problem, and (2) if a phase out provision is adopted, should it be longer than two years or shorter.

13. Section 337.4(f) and 337.4(g)

These sections of the proposed regulation are being reproposed without change. They serve to remind insured nonmember banks that (1) it is not FDIC's intent to prohibit a bank subsidiary from conducting any securities activity that the bank itself could lawfully conduct under the Glass-Steagall Act, and (2) that the regulation does not authorize the bank to itself conduct any securities activities that are not lawful under the Glass-Steagall Act. We wish to stress that the proposed regulation does *not* authorize any insured nonmember bank to either directly, or indirectly through a subsidiary, conduct any securities activity. An insured nonmember bank must derive that authority, if at all, from some other source, such as state law.

14. Paperwork Reduction Act

The notice requirements contained in the proposed regulation do not constitute "collections of information" for purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and therefore are not subject to the Office of Management and Budget ("OMB") clearance provisions of that Act. This is because the notice requirements fall within the exception to the definition of "information" set out in § 1320.7(k)(1) of OMB regulations implementing the "collection of information clearance" provisions of the Act (5 CFR Part 1320). It is recognized, however, that the notice requirements do place an affirmative obligation on a bank to notify the FDIC of its intended action and to confirm whether or not the subsidiary was acquired or established. Any costs associated with these notices would appear, however, to be minimal. The proposed regulation does not specify the content of the written notices nor require the bank to provide any specific information. Inasmuch as the bank subsidiary will in all likelihood be filing with the SEC, no additional paperwork burdens of any kind should be created.

15. Regulatory Flexibility Analysis

In accordance with FDIC's policy statement entitled "Development and Review of FDIC Rules and Regulations" and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FDIC conducted an analysis of the impact of the proposed regulation. The results of that analysis follow.

In general, participation by bank subsidiaries in the underwriting market for new securities issues offers a number of potential benefits. Bank participation will likely lower underwriting costs for issuers in a number of markets. This competitive benefit should be particularly noticeable in local and regional markets where the number of bidders for a new issue is generally small.

Additionally, increased activity in the secondary market for securities will increase the liquidity of any new issue. This will increase the attractiveness of new securities issues to potential investors. The presence of new entrants in the underwriting and discount brokerage markets should increase investor awareness, provide for greater customer convenience and lower brokerage costs to investors (both for users of discount brokerage and full service brokerage services) as fee and service competition increases.

All of the above factors will tend to benefit the U.S. economy as more money flows into the capital markets.

The proposed regulation should not interfere substantially with the realization of these potential benefits. Moreover, it should provide additional benefits in that it reduces the potential for conflicts of interest, helps ensure that banks are adequately insulated from their subsidiaries, and prevents these subsidiaries from engaging in excessive risk taking. Furthermore, the proposed regulation should not, in any way, give certain competitors unfair advantage or work to the detriment of small banks.

There would be an overall cost to the economy if the advent of bank securities subsidiaries could be expected to jeopardize the viability of the nation's banking institutions. That does not appear to be the case, however, and certainly is not the case when the structure of the proposed regulation is taken into consideration. For example, the proposal is structured so as to insulate the bank from the activities of the subsidiary as well as any financial

repercussions generated by losses on the part of the subsidiary. The subsidiary will only be able to underwrite top-rated securities or underwrite shares in money market funds which are recognized as relatively sound investments. Thus, there is less of a likelihood that the subsidiary will incur losses that it could not safely absorb. The bank is further insulated as it will not be able to make purpose loans, prop up companies whose securities are underwritten by the bank's subsidiary or affiliate, make excessive loans to its securities subsidiary or affiliate, invest an excessive amount of capital in the subsidiary, or move poor issues into the bank's trust department.

Several provisions of the proposed regulation are designed to address the potential for conflicts of interest. It should be pointed out, however, that conflicts of interest can never be entirely eliminated. Nor would it be desirable to attempt to do so as the costs associated with excessive restrictions and government oversight would far outweigh the potential benefits from any incremental reduction in conflicts of interest.

The proposed regulation should not be detrimental to small banks. Setting the investment cap in the subsidiary at 20 percent of equity capital should enable even relatively small insured nonmember banks to indirectly compete in the securities market through a subsidiary. Moreover, there are no restrictions against joint ventures, *i.e.* more than one bank or financial institution can join together to form a securities subsidiary. The requirements that the securities business of the affiliate be physically distinct in its operation from the operation of the bank and that a majority of the bank's officers and directors not be officers or directors of the affiliate should not be an excessive burden on small banks.

Lastly, the proposed regulation may duplicate, overlap, or conflict with existing Federal laws and regulations governing the establishment and operation of securities companies, section 23A of the Federal Reserve Act (12 U.S.C. 371c), the Bank Service Corporation Act, as amended by the Garn-St Germain Depository Institutions Act (12 U.S.C. 1861 *et seq.*), and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

List of Subjects in 12 CFR Part 337

Bank, banking, Securities, State nonmember banks.

In consideration of the foregoing, the FDIC hereby proposes to amend Part 337 of title 12 of the *Code of Federal Regulations* as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 is revised to read as follows:

Authority: Sec. 6, 64 Stat. 876, 12 U.S.C. 1816; sec. 8(b), section 2[8(b)] of the Act of September 21, 1950 (Pub. L. 797), as added by sec. 202 of title II of the Act of October 16, 1966 (Pub. L. 89–695; 80 Stat. 1046), as amended by section 110 of title I of the Act of October 28, 1974 (Pub. L. 93–495; 88 Stat. 1506); sec. 11 of the Act of September 17, 1978 (Pub. L. 95–369; 92 Stat. 624); sec. 107(a)(1) and 107(b) of title I of the Act of November 10, 1978 (Pub. L. 95–630; 92 Stat. 3649 and 3653); and secs. 404(c), 425(b), and 425(c) of title IV of the Act of October 15, 1982 (Pub. L. 97–320; 96 Stat. 1512 and 1524); 12 U.S.C. 1818(b); sec. 9, 64 Stat. 881–882, 12 U.S.C. 1819; sec. 18(j)(2); 92 Stat. 3664, 12 U.S.C. 1828(j)(2), sec. 422, 96 Stat. 1469, (Pub. L. 97–320).

2. It is proposed that Part 337 be amended by adding new § 337.4 to read as follows:

§ 337.4 Securities Activities of Subsidiaries of Insured Nonmember Banks: Bank Transactions with Affiliated Securities Companies.

(a) *Definitions:* for the purposes of this section,

(1) "Affiliate" shall mean any company that directly or indirectly, through one or more intermediaries, controls an insured nonmember bank, and shall include any company controlled by a company, person, or group of persons that controls an insured nonmember bank.

(2) "Bona fide subsidiary" means a subsidiary of an insured nonmember bank that at a minimum (i) is adequately capitalized; (ii) is physically separate in its operations from the operation of the bank and does not operate on the same floor of a building on which deposits are received; (iii) does not share a common name or logo with the bank; (iv) maintains separate accounting and other corporate records; (v) observes separate formalities such as separate board of directors' meetings; (vi) maintains separate employees who are compensated by the subsidiary;[4] (vii) shares no common officers with the bank; (viii) a majority of its board of directors is composed of persons who are neither directors nor officers of the bank; and (ix) conducts business pursuant to policies and procedures independent from the bank so that customers of the subsidiary are aware that the subsidiary is a separate organization from the bank and that investments recommended, offered or sold by the subsidiary are not bank deposits, are not insured by the FDIC, and are not guaranteed by the bank nor are otherwise obligations of the bank.

(3) "Company" shall mean any corporation (other than a bank), any partnership, business trust, association, joint venture, pool syndicate, or other similar business organization.

(4) "Control" shall mean the power to directly or indirectly vote 25 per centum or more of the voting stock of a bank or company, the ability to control in any manner the election of a majority of a bank's or company's directors or trustees, or the ability to exercise a controlling influence over the management and policies of a bank or company.

(5) "Extension of credit" shall mean the making or renewal of any loan, a draw upon a line of credit, or an extending of credit in any manner whatsoever and includes, but is not limited to:

(i) A purchase, whether or not under repurchase agreement, of securities, other assets, or obligations;

(ii) An advance by means of an overdraft, cash item, or otherwise;

(iii) Issuance of a standby letter of credit (or other similar arrangement regardless of name or description);

(iv) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which a natural person or company may be liable as maker, drawer, endorser, guarantor, or surety;

(v) A discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse;

(vi) An increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for (A) accrued interest or (B) taxes, insurance, or other expenses incidental to the existing indebtedness; or

(vii) Any other transaction as a result of which a natural person or company becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(6) "Investment quality debt security" shall mean a marketable obligation in the form of a bond, note, or debenture

[4] This requirement shall not be construed to prohibit the use by the subsidiary of bank employees to perform functions which do not relate to customer contact such as accounting, data processing and recordkeeping, so long as the bank and the subsidiary contract for such services on terms and conditions comparable to those agreed to by independent entities.

that is rated in the top four rating categories by a nationally recognized rating service or a marketable obligation in the form of a bond, note, or debenture the investment characteristics of which are equivalent to the investment characteristics of such a top-rated obligation.

(7) "Investment quality equity security" shall mean marketable common or preferred corporate stock that is rated medium grade, average or better by a nationally recognized rating service.

(8) "Subsidiary" shall mean any company controlled by an insured nonmember bank.

(b) *Investment in securities subsidiaries.* (1) An insured nonmember bank may not establish or acquire a subsidiary that engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes or other securities; conducts any activities for which the subsidiary is required to register with the Securities and Exchange Commission as a broker/dealer; acts as an investment adviser to any investment company; or engages in any other securities activity unless:

(i) The subsidiary's underwriting activities that would not be authorized to the bank under section 16 of the Glass-Steagall Act (12 U.S.C. 24 (Seventh)) as made applicable to insured nonmember banks by section 21 of the Glass-Steagall Act (12 U.S.C. 378) are limited to, and thereafter continue to be limited to, one or more of the following: (A) Underwriting of investment quality debt securities; (B) underwriting of investment quality equity securities; (C) underwriting of nutual funds whose investments are exclusively limited to investment quality debt securities and/or investment quality equity securities; or (D) underwriting of nutual funds whose investments are exclusively limited to obligations of the United States or Unites States Government agencies, repurchase agreements involving such obligations, bank certificates of deposit, banker's acceptances and other bank money instruments, short-term corporate debt instruments, and other similar investments normally associated with a money market fund; and

(ii) the subsidiary is, and thereafter continues to be, a bona fide subsidiary if that subsidiary conducts securities activities not authorized to the bank under section 16 of the Glass-Steagall Act as made applicable to insured nonmember banks by section 21 of the Glass-Steagall Act.

(2) An insured nonmember bank's direct and indirect investment in one or more subsidiaries under subparagraph (b)(1) shall not exceed in the aggregate 20 per centum of the bank's equity captial as defined by FDIC for capital adequacy purposes unless prior approval for a greater investment is obtained from the FDIC.[5]

(c) *Affiliation with a securities company.* An insured nonmember bank is prohibited from becoming affiliated with any company that directly or indirectly engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes, or other securities; acts as an investment adviser to any investment company; conducts any activity for which the affiliate must register with the Securities and Exchange Commission as a broker/dealer; or engages in any other securities activity unless: (1) the securities business of the affiliate is physcially separate in its operation from the operation of the bank and does not operate on the same floor of a building on which the bank receives deposits; (2) the bank and affiliate share no common officers; (3) a majority of the board of directors of the bank is composed of persons who are neither directors nor officers of the affiliate; (4) any employee of the affiliate who is also an employee of the bank does not conduct any securities activities on behalf of the affiliate on the premises of the bank that involve customer contact; (5) the bank and affiliate do not share a common name or logo; and (6) the affiliate conducts business pursuant to policies and procedures independent from the bank so that customers of the affiliate are aware that the affiliate is a separate organization from the bank and that investments recommended, offered or sold by the affiliate are not bank deposits, are not insured by the FDIC, and are not guaranteed by the bank nor are otherwise obligations of the bank.

(d) *Filing of notice.* Every insured nonmember bank that intends to acquire or establish a subsidiary that: (1) engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes, or other securities; (2) acts as an investment adviser to any investment company; (3) conducts any activity for which the subsidiary is reuqired to register with the Securities and Exchange Commission as broker/dealer; or (4) engages in any other securities activity, shall notify the regional director of the FDIC region in which the bank is located of such intent. Notice shall be in writing and must be received in the regional office at least 60 days prior to consummation of the acquisition or commencement of the operation of the subsidiary, whichever is earlier. The bank shall also notify the regional office in writing within 10 days after the consummation of the acquisition or commencement of the operation of the subsidiary, whichever is earlier. The 60-day notice requirement may be waived in FDIC's discretion where such notice is impracticable such as in the case of a purchase and assumption transaction or an emergency merger. Where the above notices pertain solely to the transfer of securities activities previously performed by the bank to the subsidiary, an additional written notice must be filed with the regional office if the subsidiary commences any securities activity covered by paragraph (b)(1)(i) of this section. This notice must be received in the regional office within thirty days after the subsidiary commences the new activity.

(e) *Restrictions.* An insured nonmember bank which has a subsidiary or affiliate that engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes, or other securities, or acts as an investment adviser to any investment company shall not:

(1) Purchase as fiduciary or co-fiduciary any security currently distributed, currently underwritten, or issued by such subsidiary or affiliate or purchase as fiduciary or co-fiduciary any security currently issued by an investment company advised by such subsidiary or affiliate, unless the purchase is expressly authorized by the trust instrument, court order, or local law, or specific authority for the purchase is obtained from all interested parties after full disclosure;

(2) Transact business through its trust department with such subsidiary or affiliate unless the transactions are at least comparable to transactions with an unaffiliated securities company or a securities company that is not a subsidiary of the bank;

(3) Extend credit or make any loan directly or indirectly to any company the stocks, bonds, debentures, notes or other securities of which are currently underwritten or distributed by an affiliate of the bank unless the company's stocks, bonds, debentures, notes or other securities that are underwritten or distributed (i) qualify as investment quality debt securities, or (ii) qualify as investment quality equity securities; [6]

[5] An insured nonmember bank's direct investment in a securities subsidiary will not be counted toward the bank's regulatory capital.

[6] This restriction shall not be construed to prohibit the bank from honoring a loan commitment

Continued

(4) Extend credit or make any loan directly or indirectly to any money market fund or mutual fund whose shares are currently underwritten or distributed by a subsidiary or affiliate of the bank;

(5) Extend credit or make any loan where the purpose of the extension of credit or loan is to acquire (i) any stock, bond, debenture, note, or other security currently underwritten or distributed by such subsidiary or affiliate; (ii) any security currently issued by an investment company advised by such subsidiary or affiliate; or (iii) any stock, bond, debenture, note, or other issued by such subsidiary or affiliate, except that a bank may extend credit or make a loan to employees of the subsidiary or affiliate for the purpose of acquiring securities of such subsidiary or affiliate through an employee stock bonus or stock purchase plan adopted by the board of directors or board trustees of the subsidiary or affiliate; [7]

(6) Make any loan or extension of credit to a subsidiary or affiliate of the bank that (i) distributes or underwrites stocks, bonds, debenturers, notes, or other securities, or (ii) advises any investment company, if such loans or extensions of credit would be in excess of the limit as to amount, and not in accordance with the restrictions as to collateral, etc., imposed on "covered transactions" by section 23A of the Federal Reserve Act (12 U.S.C. 371c) and that are not within any exemptions established thereby; however, nothing herein shall be construed as limiting the amount of a bank's direct investment in such subsidiary other than as set out in paragraph (b)(2) of this section;

(7) Make any loan or extension of credit to any investment company for which the bank's subsidiary or affiliate acts as an investment adviser if the loan or extension of credit would be in excess of the limit as to amount, and not in accordance with the restrictions as to collateral, etc., imposed on "covered transactions" by section 23A of the Federal Reserve Act and that are not within any exemptions established thereby; and

(8) Directly or indirectly condition any loan or extension of credit to any company on the requirement that the company contract with, or agree to contract with, the bank's subsidiary or affiliate to underwrite or distribute the company's securities or directly or indirectly condition any loan or extension of credit to any person on the requirement that that person purchase any security currently underwritten or distributed by the bank's subsidiary or affiliate.[8]

(f) Nothing in this section prohibits an insured nonmember bank from establishing or acquiring a subsidiary that sells, distributes, or underwrites stocks, bonds, debentures, notes, or other securities or engages in any other securities activity if those activities would be permitted to an insured nonmember bank by sections 16 and 21 of the Glass-Steagall Act (12 U.S.C. section 24 (Seventh) and 378).

(g) Nothing in this section authorizes an insured nonmember bank to directly engage in any securities activity not authorized to it under sections 16 and 21 of the Glass-Steagall Act (12 U.S.C. section 24 (Seventh) and 378).

(h) An insured nonmember bank that prior to [insert effective date of regulation] became affiliated with a securities company or prior to that date established or acquired a subsidiary that engages in securities activities, shall have two years from [insert effective date of regulation] to bring itself into compliance with § 337.4 of this part, except that, such bank must comply with paragraphs (b)(1)(ii), (c) and (e) of this section as soon as practicable and must inform the regional director of the FDIC region in which the bank is located not later than 30 days after [the effective date of the regulation] that the bank is affiliated with a company that engages in securities activities or has a subsidiary that engages in securities activities.

By Order of the Board of Directors, 23rd day of April, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-11659 Filed 4-30-84; 8:45 am]

BILLING CODE 6714-01-M

or revolving loan agreement or funding a line of credit where the loan commitment, revolving loan agreement, or line of credit was entered into prior in time to the underwriting or distribution.

[7] In complying with §337.4(e)(5) of this part, the bank shall be entitled to rely in good faith on the customer's statement as to the purpose of the extension of credit or loan.

[8] An insured nonmember bank in complying with the requirements of §337.4(e)(1), (e)(3), and (e)(4) of this part concerning "current" underwritings and distributions may rely upon the affiliate's or subsidiary's statement that the underwriting or distribution of any particular security has terminated.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ACE-03]

Transition Area-Lebanon, Missouri; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Lebanon, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Lebanon/Floyd W. Jones Airport, Lebanon, Missouri, utilizing the Lebanon Non-Directional Radio Beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before June 7, 1984.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The

proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition are at Lebanon, Missouri. To enhance airport usage, and additional instrument approach procedure to the Lebanon/Floyd W. Jones Airport is being established utilizing the Lebanon NDB as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Lebanon, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by altering the following transition area:

Lebanon, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lebanon/Floyd W. Jones Airport (Latitude 37°38'59"N; Longitude 92°39'22"W) and within 3 miles each side of the LBO NDB (Latitude 37°34'17"N; Longitude 92°39'29"W) 182° bearing, extending from the 5-mile radius area to 11 miles S of the Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

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

Issued in Kansas City, Missouri, on April 23, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84–11821 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Economic Regs. Docket 42114; EDR–472]

Uniform System of Accounts and Reports for Certificated Air Carriers

Dated: April 10, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to reduce for certificated air carriers the financial and statistical reporting requirements contained in Part 241 of the Economic Regulations by eliminating fourteen reporting schedules contained in the CAB Form 41 report, decreasing the level of detail reported on many of the remaining Form 41 schedules and eliminating the filing of the nine remaining statements of carrier accounting procedures. These actions are intended to modify the data collected to reflect the CAB's and other Federal agencies' data needs in anticipation of the CAB's sunset.

DATE: Comments by: July 5, 1984. Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 42114, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or M. Clay Moritiz, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION: On September 15, 1981, the Board approved the transmittal of a staff report on "CAB Information Systems and Early Sunset" to the heads of other Federal agencies[1] for their comments on possible report reductions before rulemaking proceedings were initiated proposing specific reductions. The Departments of Transportation (DOT), Air Force (DOAF), Labor (DOL) and Commerce (DOC), including the Bureau of Labor Statistics (BLS) all submitted comments supporting the retention of various CAB Form 41 schedules. Their comments were analyzed and summarized in a revised staff report "CAB Information Systems and Early Sunset (Analysis of Comments and Staff Recommendations)." The revised report was adopted by the Board on June 8, 1982.

The staff report recommendations and the reductions in certificated carrier reporting that the Board is proposing are discussed below.

Elimination of Certain Schedules

The revised staff report proposed the elimination of twenty-one CAB Form 41 schedules (see Exhibit A).* Of these, nine have already been elminated by the Board's adoption of ER–1297 (47 FR 32915, July 28, 1982).[2]

Before proceeding with developing a proposed rule to eliminate the remaining twelve schedules, the Board decided to re-examine, with the purpose of confirming, the Federal government's need for those schedules that would be retained based on the staff report recommendations. Conversely, the staff

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[1] Agencies were Department of Transportation, Defense, State, Commerce, Labor, Energy, Treasury, and Justice; General Services Administration; General Accounting Office; Office of Management and Budget; and Securities and Exchange Commission.

*Exhibits A–X are filed as part of the original document.

[2] Schedules A–2, "Controlling Person's Certification;" B–7(a), "Reinvestment of Flight Equipment Capital Gains;" B–8(a), "Flight Equipment Capital Gains Invested or Deposited for Reinvestment in Flight Equipment;" P–1.1, "Statement of Operations—Group I Air Carriers;" P–2(a), "Revenue Market Report;" P–3.1, "Transport Revenues;" P–12, "Fuel Inventories and Consumption;" T–3.1, "Statement of Traffic and Capacity Statistics;" and T–7, "Statistical Market Report."

also reviewed the twelve schedules slated for elimination to ensure that their removal would not have an adverse impact on the anticipated post-sunset data needs of either the Board's transferring programs or other Federal programs.

During this re-examination of post-sunset data needs, the Board contacted and developed a continuing working relationship with other Federal agencies that have expressed a need for carrier data in order to better pinpoint their specific data requirements and select the best approach to ensure that their needs will continue to met beyond the Board's sunset. The Board's goal in doing this is to avoid placing carriers in the position of having to adjust their information systems twice; once to eliminate data the Board no longer needs; and secondly, to add eliminated data back into their system in response to an information collection by another Federal agency. This would be a needless waste of carrier resources when the Board and ultimately DOT could continue to be a central repository for carrier data at no increase in burden to the carriers.

The Board has also attempted to determine if carrier data from other sources could be used to satisfy Federal data needs. For example, the Securities and Exchange Commission (SEC) requires carriers registered with the SEC to report periodic balance sheet and income statement data. The SEC also requires that these statements be included in the annual report to the shareholders. We are unable to use the carrier financial statements filed with the SEC because the SEC requires financial data to be reported on a consolidated basis while Federal data requirements relate solely to the air transportation operations of the corporate entity.

Based on the staff's review of alternative data sources and input from Board program managers and other affected Federal agencies, the Board has tentatively concluded that, of the current forty-two schedules that comprise the CAB Form 41 Report, twenty-eight of the schedules would be needed to support the post-sunset administration of the Board's transferring and other Federal programs, while the remaining fourteen schedules could be eliminated without adversely affecting any Federal programs. It should be noted that the proposed elimination of fourteen schedules would reduce reporting burden beyond the level recommended by the staff report. Exhibit B contains a list of the twenty-eight schedules that are proposed for retention along with the Federal programs that each schedule supports. The fourteen schedules proposed for elimination are listed below.

Schedule No.	Title
B-3	Statement of Changes in Stockholder's Equity.
B-5	Property and Equipment.
B-7(b)	Flight Equipment Acquired.
B-10	Unamortized Developmental and Preoperating Costs.
B-13	Summary of Projected Financial Commitments and Related Deposits.
B-41	Receivables, Payables and Investments Relating to Affiliates and Other Investment Data.
B-43.1	Aircraft Inventory Data—Small Air Carriers.
B-46	Long-Term and Short-Term Nontrade Debt.
P-3	Transport Revenues; Depreciation and Amortization; Nonoperating Income and Expense (Net).
P-3(a)	Income Taxes.
P-4	Transport-Related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Period Adjustments and Dividends Declared.
P-5.1(a)	Statement of Aircraft Operating Expenses for Small Air Carriers.
P-5(a)	Components of Flight Equipment Depreciation.
T-2(b)	Traffic, Capacity, Aircraft Operations and Miscellaneous Statistics by Type of Aircraft.

The above schedules are being proposed for elimination because all or a major portion of the data collected on them are no longer needed for either current or transferring Board programs and no other Federal agency has expressed a need for their continuation. To facilitate the elimination of Schedules P-3 and T-2(b), the Board is proposing to transfer a limited number of data elements, which would still be needed after sunset, from these schedules to other Form 41 schedules that are slated for retention.

The difference between the fourteen schedules the Board proposes to eliminate and the twelve remaining schedules[3] that the staff report targeted for elimination is caused by adding Schedules B-7(b), B-43.1, P-5.1(a) and T-2(b) to and deleting Schedules B-12 and P-1(a) from the list of schedules to be eliminated. These changes are discussed below.

Schedules B-43.1 and P-5.1(a) were established by ER-1297 and designed to collect a minimum amount of aircraft inventory and operating expense data for small air carriers.[4] Since the Board no longer has a need for the additional aircraft inventory and operating expense data reported by the larger carriers, it is proposing to reduce the level of reporting by large air carriers on B-43 and P-5.1 to coincide with the B-43.1 and P-5.1(a) level. To accomplish this reduction and at the same time avoid the duplication of schedules that this would create, the Board proposes to eliminate Schedules B-43.1 and P-5.1(a) and extend the applicability of the revised Schedules B-43 and P-5.1 to include the small Group I air carriers.

As part of the modification of Schedule B-43, the Board proposes to require carriers to indicate by footnote on the revised aircraft inventory schedule those aircraft types that are equipped to operate over water under Federal Aviation Administration regulation FAR-121. This information is needed to assist the Board in fulfilling its emergency preparedness planning responsibilities under the War Air Service Program (Executive Order 11490, as amended). This information is used to determine the airlift capacity available for overseas operations in the event of a national mobilization.

The staff report recommended retaining Schedules B-7 and B-7(b) for the benefit of the Department of Commerce's Bureau of Economic Analysis (BEA). Currently, Schedule B-7(b) is required to be filed by all air carriers receiving section 406 subsidy payments, while Schedule B-7 "Airframes and Aircraft Engines Acquired" is required from all Group II and Group III air carriers not receiving such payments.[5] The data reported on these schedules are virtually the same; however, Schedule B-7(b) is more detailed in that it requires carriers to report data on flight equipment other than airframes and engines, such as

[3] Schedule B-3, "Statement of Changes in Stockholder Equity;" Schedule B-5, "Property and Equipment; "Schedule B-10, "Unamortized Developmental & Preoperating Costs;" Schedule B-12, "Statement of Changes in Financial Position;" Schedule B-13, "Summary of Projected Financial Commitments and Related Deposits;" Schedule B-41, "Receivables, Payables and Investments Relating to Affiliates and Other Investment Data;" Schedule B-46, "Long-term and Short-term Nontrade Debt;" Schedule P-1(a), "Interim Operations Report;" Schedule P-3, "Transport Revenues; Depreciation and Amortization; Nonoperating Income and Expense (Net);" Schedule P-3(a), "Income Taxes;" Schedule P-4, "Transport-Related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Period Adjustments and Dividends Declared;" and Schedule P-5(a), "Components of Flight Equipment Depreciation."

[4] Small air carriers are Group I air carriers with annual operating revenues below $10 million.

[5] The Board is proposing to amend Part 241 by eliminating all references to reporting requirements for the section 406 subsidy program. This will bring Part 241 in consonance with the Congressional elimination of the appropriation for section 406 subsidy, which became effective October 1, 1982.

aircraft navigation and communications equipment. With the termination of funding for the section 406 subsidy program on October 1, 1982, eliminating the Board's need for B–7(b), the staff report recommendation to continue collecting this schedule was based solely on BEA's data needs.

In subsequent discussions with BEA, we were able to better ascertain its data needs and determine that BEA's data requirements can be satisfied by the level of detail provided by B–7. Consequently, the Board proposes to eliminate Schedule B–7(b) and to modify the applicability of B–7 to encompass all Group II and Group III carriers. It should be noted that modifying the applicability of Schedule B–7 is essentially an editorial change since the reporting requirements of Schedule B–7 were automatically extended to include all Group II and Group III carriers upon the termination of the 406 subsidy program.

In a similar vein, follow-up staff discussions with DOT revealed that its data needs on Schedules T–2(a) and T–2(b) are significantly less than the current level of reporting. Consequently, the Board proposes to eliminate Schedule T–2(b) by consolidating the T–2(a) and T–2(b) data elements that are still needed on a single Schedule T–2. These changes are shown in Exhibits R and S to this rulemaking notice.

The proposed elimination of Schedule P–3 is also predicated on the shifting of certain data elements to other schedules. BEA has stated that in preparing estimates of personal consumption expenditures and U.S. airline receipts from international passenger transportation it requires the separate reporting of first class, coach and charter passenger revenues, property-excess passenger baggage revenue and reservation cancellation fees. To accommodate BEA's need for these data, the Board is proposing to transfer the above data elements to the "Operating Revenue" section of Schedule P–1.2, "Statement of Operations."

Similarly, carriers report summary depreciation and amortization expense on Schedule P–3. These data, however, are used by the Board in subsidy ratemaking and computing unit costs; therefore, the Board proposes transferring five of the seven summary accounts to the bottom of Schedule P–5.2. The remaining two accounts, Accounts 73 "Obsolescence and Deterioration Provision—Expendable Parts" and 75.6 "Depreciation—Flight Equipment" are already reported on Schedule P–5.2 Transferring the five accounts to Schedule P–5.2 would: (1) Relieve carriers from having to report Accounts 73 and 75.6 on two separate schedules; (2) facilitate the elimination of Schedule P–3; and (3) ensure the availability of depreciation and amortization expense data needed by the Board's subsidy and aircraft costing programs.

Schedule P–1(a), "Interim Operations Report" has been excluded from the list of schedules the staff report targeted for elimination. This schedule is used by the Board in monitoring air carrier unit costs and yield trends. The monthly reporting of the limited financial data on Schedule P–1(a) provides a better measure of the causal relationship between carrier fare changes and their effects on yield and unit costs than quarterly reporting, which obscures monthly cyclical swings.

The number of full-time and part-time employees are also reported on Schedule P–1(a). These data are needed by the Board for monitoring carrier employment levels to determine whether a major contraction in carrier employment has occurred under the provisions of the Employee Protection Program of the Airline Deregulation Act of 1978 (section 43 of Pub. L. 95–504, October 24, 1978). Because of these continuing needs for Schedule P–1(a) data, the Board has decided to retain P–1(a) as a continuing requirement.

Finally, Schedule B–12, "Statement of Changes in Financial Position" has also been removed from the list of schedules to be eliminated. The cash flow data provided by this schedule is used by the Board in monitoring carrier fitness and reviewing carrier applications to provide international service.

Elimination of Accounting Procedures Statements

All certificated air carriers are currently required to file statements describing the accounting and reporting procedures they use for certain activities. These procedures usually involve management discretion like the service lives and residual values used in depreciating property and equipment and the procedures used in allocating revenues and expenses between operating entities.

The staff report recommended eliminating six of the nine accounting procedures statements presently required to be filed, leaving only filing requirements for overhauls, depreciation and available capacity.

The Board has re-evaluated the need for all nine statements and concluded that the only information still needed is the determination of the available capacity that is used in computing the available ton-miles that are reported on Form 41 Schedules T–1 and T–2. This element is presently computed and reported on accounting procedures statement AP–12, "Available Capacity Statement." Available capacity is used in verifying the accuracy of carrier Form 41 submissions, keeping abreast of periodic changes in aircraft seating configurations, and in monitoring aircraft capacity levels in accordance with the Board's responsibilities under the War Air Service Program.

So that carriers can achieve the maximum reporting relief possible, the Board is proposing to add a column on the revised annual Schedule B–43, "Aircraft Inventory Data" for the reporting of available capacity by aircraft type, while simultaneously proposing to eliminate all nine of the accounting procedures statements that are currently required to be on file at the Board. Currently, carriers must file an AP–12 for each aircraft type operated; however, including aircraft capacity data on Schedule B–43 will enable carriers to report the capacity of several aircraft types on a single page.

The list of statements the Board is proposing to eliminate is set forth below:

CAB form	Title
AP–1	Procedures for Assigning or Prorating Profit and Loss Items Between Operating Entities.
AP–4	Procedures for Establishment of Expense Allocation Allowances.
AP–5	Procedures for Depreciation of Property and Equipment.
AP–6	Procedures for Accounting for Airframe and Aircraft Engine Overhauls.
AP–8	Procedures for the Accrual of Obsolescence and Deterioration Allowances for Flight Equipment Expendable Parts.
AP–9	Procedures for Accrual of Air Traffic Liability, and the Method for Determining Earned Income.
AP–10	Procedures for Assigning or Prorating Expenses Between Transport Operations and Transport-Related Services.
AP–12	Procedures for Computing Available Seat-Miles and Available Ton-Miles for each Aircraft Type.
AP–16	Procedures for Allocating Income Taxes among the Transport Entities of the Air Carrier, its Nontransport Divisions and Members of an Affiliated Group.

Simplification of Reporting Formats

During the review of the Form 41 reporting requirements, the Board attempted to go beyond the staff report recommendations to determine if any of the schedules recommended for retention could be streamlined so as to further reduce reporting burden while still meeting the essential data needs of the Board and other Federal agencies.

The Board has tentatively determined that additional burden reduction could be achieved by consolidating the reporting of certain financial and statistical data elements, and eliminating certain data columns and statistical data elements on several CAB Form 41 schedules. For example, on Schedule B–1, "Balance Sheet" (see Exhibit C), the Board proposes, among other reductions, to decrease from six to three the number of accounts used in reporting nonoperating property and equipment. This would be accomplished by combining: (1) Accounts 1795 "Leased Property under Capital Leases" and 1797 "Property on Operating-Type Lease to Others and Property Held for Lease" and (2) accounts 1796 "Leased Property under Capital Leases-Accumulated Amortization" and 1798 "Property on Operating-Type Lease to Others and Property Held for Lease-Accumulated Depreciation" and including the amounts reported in these combined accounts in account 1791 "Nonoperating Property and Equipment" and account 1792 "Allowance for Depreciation and Amortization," respectively.

An illustration of statistical data simplication is the proposed consolidation of Schedules T–2(a) and T–2(b) "Traffic, Capacity, Aircraft Operations, and Miscellaneous Statistics by Type of Aircraft" into a single Schedule T–2. This consolidation is being proposed in light of the anticipated post-sunset data needs of the Board's and other Federal programs, which are significantly less detailed than the current reporting level. The merger of T–2(a) and T–2(b) would be accomplished by either eliminating or consolidating data elements now being reported. For example, the reporting of passenger/cargo and mixed passenger/cargo data would be combined by class of service (*i.e.*, first class or coach). An example of data that would be eliminated are the nonscheduled service data elements now reported on Schedule T–2(a). This includes nonscheduled—revenue passenger-miles, available seat-miles, revenue ton-miles, available ton-miles and revenue aircraft miles flown. The data that would be eliminated are shown in Exhibits R and S.

The Board is also proposing to simplify Schedule B–8, "Property and Equipment Retired" by eliminating the reporting of ground property and equipment. While the Board uses Schedule B–8 to calculate the market value of various types of aircraft for use in economic analyses and BEA uses B–8 data in developing a price index for purchased aircraft to obtain constant dollar estimates of aircraft exports and aircraft pruchases by business, the staff has been unable to identify a need for ground property and equipment retirement data.

The above examples and the remaining data simplification proposals are highlighted in the attached Exhibits C through V.

Accounting System Changes

As indicated above, one of the proposed reductions is the reporting of less detailed accounting data. This would be accomplished by consolidating certain accounts within the Board's uniform system of accounts. While reducing the number of accounts on the Form 41 schedules would reduce reporting burden, it may also cause some confusion over where to report the data contained in those accounts that have been eliminated. The Board has attempted to avoid this problem by proposing to modify the uniform system of accounts to reflect the proposed reporting changes on Schedules B–1, P–1.2 and P–5.2. These modifications would be accomplished by revising the chart of accounts and account descriptions so as to facilitate the flow of data from the accounting system to the Form 41 schedules. For example, accounts 1840 "Unamortized Debt Expense," 1870 "Property Acquisition Adjustment," and 1880 "Intangible Assets" would be combined with account 1890 "Other Assets" and reported on Schedule B–1 "Balance Sheet" as a revised account 1890 "Other Assets and Deferred Charges."

Elimination of Twelve Months-to-Date Data

Certificated route air carriers are currently required to file both quarterly and 12 months-to-date data for the fourth quarter of each calendar year on Schedules P–5.1, P–5.2, P–6, P–7 and P–8, which are used for reporting various air carrier operating expense data.

The reasons carriers were required to file 12 months-to-date data were twofold. First, the 12-month data could be used to check the totals of the four quarterly submissions. In doing this, the Board could verify the completeness of the quarterly data since the absence of any subsequent revisions to the quarterly filings would be highlighted in comparison with 12-month totals. Second, the immediate availability of 12 months-to-date data eliminated the cumbersome and time-consuming task of having to add the large number of quarterly data elements to arrive at a 12-month total. It also effectively facilitated the analysis of carrier and industry data by increasing the timeliness of data availability.

The Board now has the on-line computer capability to manipulate quarterly carrier data and generate 12-month totals as needed. Moreover, the capability exists to crosscheck Form 41 schedule data elements and totals to verify the accuracy of quarterly submissions. These events have eliminated the need for carriers to file 12-month data summaries on the above Form 41 schedules. Accordingly, the proposed rule would eliminate this requirement for Schedules P–5.1, P–5.2, P–6, P–7 and P–8.

It should be noted, however, that the proposed rule would retain the current requirement that carriers report twelve months-to-date data on their Statement of Operations, Schedules P–1.1 and P–1.2. These data are used by the staff to check the accuracy of previously reported quarterly data since carriers sometimes revise prior quarters but do not submit revised schedules.

The Board also proposed to eliminate the Schedule B–12 data column that is identified in the reporting instructions for use by carriers in reporting comparative quarterly or annual financial data to the Securities and Exchange Commission (SEC). This column was added to Schedule B–12 by ER–980 (42 FR 19, January 3, 1977) which implemented a CAB/SEC Single Reporting System, giving carriers the opportunity to meet certain CAB and SEC reporting requirements by filing a single set of schedules with both agencies. The system included Schedules B–1 "Balance Sheet," P–1 "Statement of Operations," B–12 "Statement of Changes in Financial Position," B–3 "Statement of Changes in Stockholders' Equity" and B–2 "General Notes to Financial Statements." Since carriers have not used this single reporting system and since previously adopted and currently proposed reductions in reporting have effectively terminated the availability of the single reporting option, this proposed rule would eliminate all references to the use of CAB reports for meeting SEC reporting obligations, including the use of Schedule B–12 for reporting comparative financial data.

Reporting Data for MAC Operations

On October 30, 1969, the President issued Executive Order 11490 establishing the Civil Reserve Air Fleet program (CRAF). The authority for administering this program has been delegated to the Department of the Air Force's Military Airlift Command. Under the CRAF program, MAC awards airlift

service contracts to civil air carriers based upon the level of their commitment to the CRAF mobilization base in the event of a national emergency. To ensure broad support for the program from the air transportation industry, MAC uses uniform negotiated rates to increase civil air carrier participation in CRAF.

MAC has informed us that it requires the continued collection of certain air carrier financial and statistical data to ensure the reasonableness of the rates and program participation incentives negotiated with air carriers. As part of these data requirements, MAC has asked us to collect revenue aircraft hours (ramp-to-ramp) in addition to the military charter statistics currently reported on Schedule T-1(c), "Traffic and Capacity Statistics by Class of Service—Nonscheduled Services." Ramp-to-ramp data are needed to coincide with internal block hours that are reported in MAC's integrated computerized tracking system. MAC has also asked that these data be reported for MAC charter operations by aircraft type.

As to the effect of these changes on carrier reporting burden, MAC has stated that the ramp-to-ramp data and the statistical data breakouts by aircraft type are readily available to the carriers and would not represent an additional reporting burden since MAC would have to request the data when performing its rate reviews. Reporting these data on Schedule T-1(c) could also save carriers the potential burden of having to go back and reconstruct the data for each rate review since MAC's data request would come almost a year after the flights were performed.

Based on the above circumstances and the fact that the schedule changes would affect only those carriers performing MAC charter operations, the Board proposes to modify Schedule T-1(c) to collect military charter statistics by aircraft type, including revenue aircraft hours (ramp-to-ramp).

Reporting Data by Aircraft Type

At the present time, all certificated air carriers report certain operating expense and traffic data by aircraft type on Schedules P-5, T-2 and T-3. The reporting instructions for these schedules require that each aircraft type reported be identified at the head of each data column. With the significant growth in the number of operating certificated carriers under deregulation, we have been experiencing problems with carriers reporting incomplete aircraft type data. For example, a carrier may report data by aircraft model (B-707) instead of by aircraft model and series (B-707-100). To avoid this problem in the future, the proposed rule clarifies the reporting instructions for the above schedules by referring carriers to the Board's "Manual of ADP Instructions, Outputs, Codes and Related Material," which contains a listing of reportable aircraft type designations.

This document also contains a four digit aircraft code for each aircraft type. The aircraft code is used to consolidate, for reporting purposes, aircraft that are different types but of the same basic design. To avoid confusion by the carriers about which aircraft types should be reported separately and which should be consolidated, the proposed rule would provide a space for reporting aircraft codes on the affected schedules. This should help carriers to avoid the burden of inadvertently allocating operating costs and statistics to more aircraft types than are needed for reporting.

Reporting of Carrier Operating Expense Data

The staff report recommended retaining Schedules P-6, P-7 and P-8, which are used for reporting detailed carrier operating expenses such as the various individual expense accounts that are allocated to the aircraft and traffic servicing and general and administrative functions. A need for these data was expressed by MAC, which intends to use the reported operating expense data in an automated ratemaking system that is based on the Board's uniform system of accounts. The Board also uses these data in performing trend analyses of carrier costs and costing international service segments.

Since the Board's accounting system provides the framework for MAC's ratemaking system, MAC has requested that we retain the level of expense detail now reported on P-6, P-7 and P-8. However, the Board has concluded in a review of the anticipated post-sunset data needs that its information requirements are significantly less detailed. Exhibits W and X show the specific operating expense data needed by the Board. The revised Schedule P-6 and Schedule P-7 would reduce the number of operating expense schedules from three to two and the number of reported data elements by 61%, 79% and 66% for Group I, II and III carriers, respectively.

The revised Schedules P-6 and P-7 were included as exhibits to this proposed rule for discussion purposes only. The Board realizes that replacing the current Schedules P-6, P-7 and P-8 with the revised P-6 and P-7 may hinder MAC's ratemaking functions and seeks public comments on these reduced data requirements, especially from MAC, to enable the Board to determine if further reductions in the current level of reporting are possible without adversely affecting other Federal program.

The conversion from the current P-6, P-7 and P-8 reporting format to the revised P-6 and P-7 formats would be accomplished by having Group III air carriers file both revised P-6 and P-7 schedules in conjunction with Schedule P-5.2, "Aircraft Operating Expenses," while all Group II air carriers and Group I air carriers with total annual operating revenues of $10 million or more would file the proposed Schedule P-5.1 and revised Schedule P-6. It should be noted that collecting Schedule P-5.1 from Group II carriers instead of Schedule P-5.2, as proposed, would enable the Board to collect the summary indirect cost data reported on Schedule P-5.1, which it needs for carrier costing analyses. These data would replace the more extensive cost allocations required for the revised Schedule P-7.

In order to better understand the relationship between the current P-6, P-7 and P-8 and the revised P-6 and P-7, Exhibits W and X contain a general guide for converting the present schedules to the revised Schedules P-6 and P-7. However, the Board recognizes that most carriers maintain a more detailed chart of accounts supplementing those provided for by the CAB's Uniform System of Accounts and Reports. Therefore, if the revised schedules were adopted, carriers would be encouraged to use their own detailed account system in developing the new cost allocations on the assumption that this would provide a more precise picture of the objective expense elements outlined on the revised Schedules P-6 and P-7.

Paperwork Reduction Act

The collection-of-information requirements in this proposal are subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35. These requirements have been submitted to the Office of Management and Budget (OMB) for review and comment. Persons may submit comments on the collection-of-information requirements to OMB and to the Board. Comments sent to OMB should be addressed to: Office of Information and Regulatory Affairs, ATTN: Desk Officer for Civil Aeronautics Board, Office of Management and Budget, Washington, D.C. 20503.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act (Pub. L. 96-354), the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Most of the entities affected by this proposal would be large certificated air carriers, and the effect of the proposed changes would be a reduction in reporting burden.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform system of accounts and reports.

Proposed Rule

PART 241—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers* as follows:

1. Section 04 would be amended by revising paragraph (a) to read:

§ 04 Air carrier groupings.

(a) All certificated air carriers are placed into three basic air carrier groupings based upon their level of operations and the nature of these operations. In order to determine the level of operations, total operating revenues for a twelve month period are used. The following operating revenue ranges are used to establish air carrier groupings:

Carrier group	Total annual operating revenues
I	0 to $75,000,000
II	$75,000,001 to $200,000,000
III	$200,000,001 plus

For reporting purposes, Group I air carriers are further divided into two subgroups: (1) Air carriers with total annual operating revenues between $10,000,000 and $75,000,000 and (2) air carriers with total annual operating revenues below $10,000,000.

* * * * *

2. Section 1-7 would be revised to read:

§ 1-7 Interpretation of accounts.

To the end that uniform accounting may be maintained, questions involving matters opf accounting significance which are not clearly provided for should be submitted to the Director, Bureau of Carrier Accounts and Audits, for explanation, interpretation, or resolution.

3. Section 1-8 would be revised to read:

§ 1-8 Address for reports and correspondence.

Reports, statements, and correspondence submitted in accordance with or relating to instructions and requirements contained herein shall be addressed to the Office of Comptroller, Civil Aeronautics Board, Washington, D.C. 20428, the organizational unit responsible for administering the reporting functions of the Civil Aeronautics Board.

§ 1-9 [Amended]

4. Section 1-9 would be amended by removing paragraph (e).

5. Section 2-1 would be amended by revising paragraph (c) and removing paragraph (e) to read:

§ 2-1 Basis of allocation between entities.

* * * * *

(c) For purposes of this section, investments by the air carrier in resources or facilities used in common by the rgulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1-6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominately uses those investments. Where the entity of predominate use is a nontransport venture, the air carrier shall reflect the investment in account 1510.3, Advances to Associated Companies.

(d) * * *

6. Section 2-7 would be amended by revising paragraph (g) to read:

§ 2-7 Extraordinary items, discontinued operations, prior period adjustments, and accounting changes.

* * * * *

(g) The cumulative effect of cahnges in accounting principles shall be reflected in the account provided for in the determination of net income and clearly and completely described in notes to the income statement (see section 18). The amount of the cumulative effect of a change in accounting principles shall represent the difference between: (a) The amount of retained earnings at the beginning of the period of the change, and (b) the amount of retained earnings that would have been reported at that date if the new accounting principle had been applied retroactively for all prior periods which would have been affected by recognizing only the direct effects of a change and the related income tax effect. Financial statements of prior periods shall not be restated without the prior approval of the Director, Bureau of Carrier Accounts and Audits. Changes in accounting estimates shall be accounted for in : (a) The period of change if the change affects that period only, or (b) the period of change and future periods if the change affects both. Materiality should be measured both in relation to the effects of each change separately and the combined effect of all changes.

7. Section 2-12 would be amended by revising subparagraph (a)(6) to read:

§ 2-12 Acquisition and valuation of assets.

* * * * *

(6) Changes in the valuation allowance for a marketable equity securities portfolio included in current assets shall be included in the determination of net income of the period in which they occur by charging account 8188.3. Accumulated changes in the valuation allowance for a marketable equity securities portfolio included in noncurrent assets shall be included in the equity section of the balance sheet in account 2900, Retained Earnings.

* * * * *

8. Section 2-13 would be amended by revising paragraph (d) to read:

§ 2-13 Establishment of allowances.

* * * * *

(d) Additional allowances over those prescribed in this system of accounts may be established for the purpose of allocating expense charges between calendar quarters of each accounting year in accordance with operations performed, in the event such expenditures are part of a specific program to which the air carrier is demonstrably committed and are of sufficient magnitude to significantly distort the financial results of the current quarter if expensed directly.

§ 2-14 [Amended]

9. Section 2-14 would be amended by removing and reserving paragraph (b).

10. Section 2-17 would be amended by revising paragraph (b) and removing paragraphs (e) and (f) to read:

§ 2-17 Revenue and accounting practices.

* * * * *

(b) Each route air carrier shall physically verify the reliability of its passenger revenue accounting practice at least once each accounting year.

* * * * *

11. Section 2-18 would be amended by revising paragraphs (a), (b), and (c) to read:

§ 2-18 Transactions between members of an affiliated group.

(a) Unless otherwise approved by the Board's Director, Bureau of Carrier

Accounts and Audits, transactions between the regulated activity of an air carrier and activities conducted by nontransport divisions or other corporate members of an affiliated group shall be recorded by the air carrier as provided in paragraphs (b) through (e) of this section 2–18.

(b) Charges for services and assets purchased by or transferred to a regulated activity of an air carrier from other activities of an affiliated group shall be recorded initially in the accounts of the regulated air carrier activity at their invoice price, if determined from a prevailing price list held out to the general public in the normal course of business. Where the services and assets received by the regulated activity of the air carrier are not marketed by the affiliated supplier to the general public under a prevailing price list, the charges recorded by the air carrier activity for such services and assets shall be the lower of their cost to the originating activity of the affiliated group (less all applicable valuation allowances) or their estimated fair market value. In the case of charges against income for services received, as distinguished from charges for property and equipment or other assets acquired, any difference in the amount recorded and the consideration given by the air carrier shall be entered in subaccount 88.1 Intercompany Transaction Adjustment—Credit or in subaccount 89.1 Intercompany Transaction Adjustment—Debit. In the case of property and other assets acquired, any difference between the amount recorded and the consideration given by the air carrier shall be entered in appropriate subaccounts of account 1890 Other Assets and Deferred Charges, paralleling subaccount 88.1 Intercompany Transaction Adjustment—Credit and subaccount 89.1 Intercompany Transaction Adjustment—Debit, and shall be cleared to such income accounts through periodic amortization at rates coinciding with those applied to other associated assets.

(c) The cost, less all associated valuation allowance accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable transport-related revenues or capital gain income accounts, as appropriate. Where such services and assets are reflected in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares or charges contained therein in the appropriate transport-related services, capital gains or air transport income accounts. Where no prevailing price list is applicable, the associated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment—Credit or subaccount 89.1 Intercompany Adjustment—Debit.

* * * * *

12. Section 2–20 would be amended by revising subparagraphs (a)(2), (a)(3), (b)(2)(ii) and (b)(3)(ii) to read:

§ 2–20 Accounting for leases.

(a) * * *

(2) The lessee shall record a capital lease as an asset (Account 1695.1, Capital Leases—Flight Equipment, or Account 1695.2, Capital Leases—Other Property and Equipment) and an obligation (Account 2080, Current Obligations under Capital Leases, or Account 2280, Noncurrent Obligations under Capital Leases), at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

(3) Except for land, lessees shall amortize, by charging either Accouunt 7076.1, Amortization—Capitalized Flight Equipment, or Account 7076.2, Amortization—Capitalized Other Property and Equipment, and credit either Account 1696.1, Accumulated Amortization—Capitalized Flight Equipment, or Account 1696.2, Accumulated Amortization—Capitalized Other Property and Equipment, the asset recorded under a capital lease as follows: (i) If the lease either transfers ownership of the property to the lessee by the end of the lease term or contains a bargain purchase option, the asset shall be amortized in a manner consistent with the lessee's normal depreciation policies for owned assets or (ii) if the lease does not meet either of the preceding criteria, the asset shall be amortized in a manner consistent with the lessee's normal depreciation policy except that the period of amortization shall be the lease term.

(b) * * *

(2) * * *

(ii) The difference between the gross investment in the lease and the sum of the present values of the two components of the gross investment shall be recorded as unearned income. The net investment in the lease shall consist of the gross investment less the unearned income. The unearned income shall be amortized to income over the lease term so as to produce a constant periodic rate of return on the net investment in the lease. Contingent rentals, including rentals based on variables such as the prime interest rate, shall be credited to income when they become receivable.

* * * * *

(b) * * *

(3) * * *

(ii) The difference between the gross investment in the lease and the cost or carrying amount, if different, of the leased property shall be recorded as unearned income. The net investment in the lease shall consist of the gross invesment less the unearned income. Initial direct costs shall be charged against income as incurred, and a portion of the unearned income equal to the initial direct costs shall be recognized as income in the same period. The remaining unearned income shall be amortized to income over the lease term so as to produce a constant periodic rate of return on the net investment in the lease. Contingent rentals, including rentals based on variables such as the prime interest rate, shall be credited to income when they become receivable.

* * * * *

13. Section 3 would be revised to read:

BALANCE SHEET CLASSIFICATIONS

SECTION 3.—CHART OF BALANCE SHEET ACCOUNTS

Name of account	General classification
Current assets:	
Cash	1010
Short-term investments	1100
Notes receivable	1200
Accounts receivable	1270
Allowance for uncollectible accounts	1290
Spare parts and supplies	1300
Allowance for obsolescence-Spare parts and supplies	1311
Prepaid items	1410
Other current assets	1420
Investments and special funds:	
Investments in associated companies	1510
Investments in investor controlled companies	1510.1
Investments in other associated companies	1510.2
Advances to associated companies	1510.3
Other investments and receivables	1530
Special funds	1550
Property and equipment	1600–1700

	Operating	Nonoperating
Airframes	1601	1701
Airframes	1601.1	1701.1
Unamortized airframe overhauls	1601.2	1701.2
Aircraft engines	1602	1702
Aircraft engines	1602.1	1702.1
Unamortized aircraft engine overhauls	1602.2	1702.2
Improvements to leased flight equipment	1607	1707
Flight equipment rotable parts and assemblies	1608	1708
Airframe parts and assemblies	[1]1608.1	[1]1708.1
Aircraft engine parts and assemblies	[1]1608.5	[1]1708.5
Other parts and assemblies	[1]1608.9	[1]1708.9
Flight equipment	1609	1709
Allowance for depreciation:		
Airframes	1611	1711
Aircraft engines	1612	1712
Improvements to leased flight equipment	1617	1717
Flight equipment rotable parts and assemblies	1618	1718
Flight equipment airworthiness allowance	[2]1629	[2]1729
Equipment	1630	1730
Furniture, fixtures and office equipment	1636	1736
Improvements to leased buildings and equipment	1639	1739
Buildings	1640	1740
Maintenance buildings and improvements	1640.1	1740.1
Other buildings and improvements	1640.9	1740.9
Ground property and equipment	1649	1749
Allowance for depreciation:		
Equipment	1650	1750
Improvements to leased buildings and equipment	1654	1754
Furniture, fixtures, and office equipment	1656	1756
Buildings	1660	1760
Maintenance buildings and improvements	1660.1	1760.1
Other buildings and improvements	1660.9	1760.9
Allowance for depreciation of flight equipment and ground property and equipment, and amortization of overhaul and airworthiness costs	1668	1768
Land	1679	1779
Equipment purchase deposits and advance payments	1685	1785
Construction work in progress	1689	1789
Leased property under capital leases	1695	1795
Capital leases—flight equipment	1695.1	1795.1
Capital leases—other property and equipment	1695.2	1795.2
Leased property under capital leases, accumulated amortization	1696	1796
Accumulated amortization—capitalized flight equipment	1696.1	1796.1
Accumulated amortization—capitalized other property and equipment	1696.2	1796.2
Property on operating-type lease to others and property held for lease		1797
Property on operating-type lease to others and property held for lease, accumulated depreciation		1798
Other assets:		
Long-term prepayments		1820
Unamortized developmental and preoperating costs		1830
Other assets and deferred charges		1890
Current liabilities:		
Current maturities of long-term debt		2000
Notes payable:		
Banks		2005
Other		2015
Trade accounts payable		2021
Accounts payable—other		2025
Current obligations under capital leases		2080
Accrued salaries, wages		2110
Accrued vacation liability		2120
Accrued interest		2125
Accrued taxes		2130
Dividends declared		2140
Air traffic liability		2160
Other current liabilities		2190
Noncurrent liabilities:		
Long-term debt		2210
Advances from associated companies		2240
Pension liability		2250
Noncurrent obligations under capital leases		2280
Other noncurrent liabilities		2290
Deferred credits:		
Deferred income taxes		2340
Deferred investment tax credits		2345
Other deferred credits		2390
Stockholders' equity:		
Preferred stock		2820
Common stock		2840
Additional capital invested		2890
Premium on capital stock		2890.1
Discount on capital stock		2890.2
Other capital stock transactions		2890.3
Retained earnings		2900
Treasury stock		2990

[1] Prescribed for group II and group III air carriers only.
[2] At the option of the air carrier, these accounts may be assigned Nos. 2629 and 2729, respectively, for accounting purposes.
NOTE: Digits to right of decimals and italicized codes established for CAB control purposes only.

14. Section 5–3 would be amended by revising subparagraphs (e)(4) and (e)(10) to read:

§ 5–3 Property and equipment.

(e) * * *

(4) If property and equipment is acquired as part of a business from another air carrier through consolidation, merger, or reorganization, pursuant to a plan approved by the Civil Aeronautics Board, the costs and related allowances for depreciation as carried on the books of the predecessor company at the date of transfer shall be entered by the acquiring air carrier in the appropriate accounts prescribed for recording investments in tangible assets. Any difference between the purchase price of the property and equipment acquired and its depreciated cost at date of acquisition shall be recorded in balance sheet account 1890 Other Assets and Deferred Charges. Property acquired from an associated company shall also be accounted for in accordance with this paragraph unless otherwise approved by the Board.

* * * * *

(10) When operating property or equipment is retired from air transportation or transport-related operations and retained by the air carrier, its cost, together with applicable allowances for depreciation, shall be transferred to balance sheet classification 1700 Nonoperating Property and Equipment. If property is transferred for exclusive use of nontransport divisions, the cost less related allowances for depreciation shall be recorded in balance sheet account 1510.3 Advances to Associated Companies.

* * * * *

15. Section 5–4 would be amended by revising subparagraphs (g)(2) and (g)(3) and removing paragraph (h) to read:

§ 5–4 Property and equipment depreciation and overhaul.

* * * * *

(g) * * *

(2) When overhauls are performed, the related costs of labor, materials, outside overhauls, and maintenance burden shall be charged to the applicable direct maintenance and maintenance burden objective expense accounts as incurred. With respect to those airframe or aircraft engine types for which overhauls are being deferred and amortized, a project cost ledger shall be maintained to control and identify overhauls costs, and the accumulated overhauls costs shall be debited each month to appropriate subaccounts of the related airframe, aircraft engine, or leasehold improvement accounts with a corresponding credit to account 72.3 Airframe Overhauls Deferred or account 72.8 Aircraft Engine Overhauls Deferred.

(3) Upon completion of each overhaul phase or project, the deferred costs shall be amortized to account 72.3 Airframe Overhauls Deferred or to account 72.8 aircraft Engine Overhauls Deferred over the authorized interval until the related overhaul procedures are required to be performed again.

* * * * *

16. Section 5–5 would be revised to read:

§ 5–5 Other assets.

Include in this classification all debit balances in general clearing accounts, including charges held in suspense pending receipt of information necessary for final disposition, prepayments chargeable against operations over a period of years, capitalized expenditures of an organizational or developmental character, unamortized debt expense, property acquisition adjustments, the cost of patents, copyrights and miscellaneous intangibles, and other noncurrent assets which cannot be recoded elsewhere within the chart of accounts. Deferred charges having a definite time incidence shall be amortized over the periods to which they apply.

17. Section 5–9 would be amended by revising paragraphs (b) and (g) to read:

§ 5–9 Stockholder equity.

* * * * *

(b) The general classification "Stockholders' Equity," shall be subdivided between:

(1) "Total Paid-in Capital," which represents direct contributions of the stockholders;

(2) "Retained Earnings," which represents the amount of income

retained from the operation of the air carrier; and

(3) "Treasury Stock," which represents the cost to the air carrier of capital stock issued by the air carrier that has been reacquired and is held for disposition.

* * * * *

(g) The "Retained Earnings" balance sheet classification shall reflect the balance of net profits, income, and gains of the air carrier from the date of incorporation after deducting losses, distributions to stockholders, and the net unrealized loss on marketable equity securities included in noncurrent assets. In cases where a deficit has been absorbed by a reduction of "Additional Capital Invested" as a result of a restatement of capital stock or retained earnings, a new retained earnings account shall be established, dated to show that it runs from the effective date of the restatement and this dating shall be disclosed in financial statements until such time as the effective date no longer possesses special significance.

18. Section 6, *Objective Classification of Balance Sheet Elements,* would be amended by:

A. Revising paragraph (b) of Accounting 1200 to read:

1200 Notes receivable.

* * * * *

(b) Balances of notes payable to associated companies shall not be offset against amounts carried in this account. Balances with associated companies which are not normally settled currently shall not be included in this account but in balance sheet account 1510.3 Advances to Associated Companies.

B. Revising paragraph (d) of Account 1270 to read:

1270 Accounts receivable.

* * * * *

(d) Balances payable to associated companies shall not be offset against amounts carried in this account. Balances with associated companies which are not normally settled currently shall not be included in this account but in balance sheet account 1510.3 Advances to Associated Companies.

C. Removing the title and account description for Account 1280, *Net Investment in Direct Financing and Sales-Type Leases—Current.*

D. Revising the title and paragraph (b) of Account 1300 *Spare and Supplies* to read:

1300 Spare parts and supplies.

* * * * *

(b) Costs paid by the air carrier such as transportation charges and customs duties; excise, sales, use and other taxes; special insurance; and other charges applicable to the cost of spare parts and supplies shall be charged to this account when they can be definitely allocated to specific items or units of property. If such costs cannot be so allocated, or if of minor significance in relation to the cost of such property, such amounts may be charged to balance sheet account 1890 Other Assets and deferred Charges and cleared either by a suitable "loading charge" as the parts are used or by current charges to appropriate expense or property accounts; so long as the method of application does not cause material distortion in operating expenses from one accounting period to another.

* * * * *

E. Removing paragraph (d) of Account 1311, *Allowance for Obsolescence—Spare Parts and Supplies.*

F. Revising the account number of Account 1520 to read:

1510.3 Advances to associated companies.

* * * * *

G. Revising the account description of Account 1530 to read:

1530 Other investments and receivables.

(a) Record here notes and accounts receivable not due within one year, investments in securities issued by others, investments in leveraged leases, the noncurrent net investment in direct financing and sales-types leases, and the allowance for unrealized gain or loss on noncurrent marketable equity securities. Securities held as temporary cash investments shall not be included in this account but in balance sheets account 1100 Short-term Investments. Investments in and receivables from associated companies which are not settled currently shall be included in balance sheet account 1510 Investments in Associated Companies.

(b) For investments in leveraged leases, four subaccounts shall be maintained for: (1) Rentals receivable, net of that portion of the rental applicable to principal and interest on the non-recourse debt; (2) a receivable for the amount of the investment tax credit to be realized on the transaction; (3) the estimated residual value of the leased asset; and (4) unearned and deferred income consisting of the estimated pretax lease income (or loss), after deducting initial direct costs, remaining to be allocated to income over the lease term and the investment tax credit remaining to be allocated to income over the lease term.

(c) For the net investment in direct financing and sales-type leases which is not reasonably expected to be amortized within one year, three subaccounts shall be maintained for: (1) The minimum lease payments receivable (debit); (2) the unguaranteed residual value accruing to the benefit of the lessor (debit); and (3) unearned income (credit).

H. Removing the account number, account title and account description of Account 1570, *Investment in Leverage Leases.*

I. Removing the account number, account title and account description of Account 1580, *Net Investment in Direct Financing and Sales-Type Leases—Noncurrent.*

J. Revising the account description of Account 1695 to read:

1695 Leased property under capital leases.

(a) Record here the total cost to the air carrier for all property obtained under capital leases as provided in section 2–20(a).

(b) This account shall be subdivided by all air carrier groups as follows:

1695.1 Capital leased—Flight equipment.

1695.2 Capital leased—Other property and equipment.

K. Revising the account description of account 1696 to read:

1696 Leased property under capital leases—Accumulated amortization.

(a) Record here accruals for amortization of leased property obtained under capital leases as provided in section 2–20(a).

(b) This account shall be subdivided by all air carrier groups as follows:

1696.1 Accumulated amortization—Capitalized flight equipment.

1696.2 Accumulated amortization—Capitalized other property and equipment.

L. Removing the account number, account title and account description of Account 1840, *Unamortized Debt Expense.*

M. Removing the account number, account title and account description of Account 1870, *Property Acquisition Adjustment.*

N. Removing the account number, account title and account description of Account 1880, *Intangible Assets.*

O. Revising the account title and account description of Account 1880, *Other Assets,* to read:

1890 Other assets and deferred charges.

(a) Record here other assets and deferred charges not provided for elsewhere.

(b) Record here debits, the proper final disposition of which cannot be determined until additional information has been received. This account shall include the accumulated cost of labor, materials and outside services used in the process of manufacturing flight equipment expendable parts and materials and supplies for stock, the accumulated cost of jobs in process for others, projects to be charged to expense upon completion. This account shall also include unamortized debt expense, property acquisition adjustments and intangible assets.

(c) This account shall be charged with property loss and other costs related to casualties and credited with recoveries from purchased insurance and salvage. A debit or credit balance in this account related to property retired as a result of a casualty shall be recorded in profit and loss account 88.5 Capital Gains and losses—Operating Property or 88.6 Capital Gains and Losses—Other; however, and balances related to property not retired or to other casualties shall be recorded in profit and loss account 58 Injuries, Loss and Damage. Proceeds from purchased insurance for property damage, received prior to repair of such damage, shall not be credited to this account but to balance sheet account 2390 Other Defered Credits pending repair. The records for each major casualty shall be kept in such manner as to clearly disclose insurance recoveries and the total costs, which shall include charges for the depreciated cost of property damaged or destroyed, costs for clearing wrecks and damaged property and equipment, including salaries and wages for the repair thereof, and payments for damages to property of others. The cost of casualties shall not be charged directly against retained earnings or appropriations thereof, but shall be cleared through the applicable profit and loss accounts in accordance with the foregoing.

(d) Record here the unamortized debt expense related to the assumption by the air carrier of debt of all types and classes. Amounts recorded shall be amortized to profit and loss account 84 Amoritization of Debt Discount, Premium and Expense.

(e) Unamortized debt expense shall not include the excess of the par value of debt securities over the cash value of consideration received. Instead, discounts shall be recorded in a subaccount of the related liability.

(f) Record here the cost of patents, copyrights and other intangible properties, rights and privileges acquired as a part of a business from other air carriers and other intangibles not provided for elsewhere. This account shall be subdivided to reflect the nature of each intangible asset included in this account.

(g) Record here the difference between the purchase price to the air carrier of property and equipment acquired as a part of a business from another air carrier through consolidation, merger, or reorganization, pursuant to a plan approved by the Civil Aeronautics Board, and the depreciated cost to the predecessor company at date of acquisition. Record here also such differences relating to purchases of property and equipment from associated companies unless other treatment is approved by the Board. Separate subaccounts shall be established to record the amounts applicable to each such acquisition.

(h) Balances in this account relating to property acquisition adjustments shall be amortized by charges to profit and loss account 89.9 Other Miscellaneous Nonoperating Debits unless otherwise directed or approved by the Civil Aeronautics Board.

P. Removing paragraph (e) of Account 2160, *Air Traffic Liability.*

Q. Removing the account number, account title and account description of Account 2260, *Stock Purchase Plan Liability.*

R. Revising the account description of Account 2290 to read:

2290 Other noncurrent liabilities.

Record here noncurrent liabilities not provided for in balance sheet accounts 2210 to 2280, inclusive, such as the liability for installments received on capital stock from company personnel who are not bound by legally enforceable subscription contracts, accruals for personnel dismissal liability, and accruals of other demonstrable miscellaneous noncurrent liabilities.

S. Revising the account number of Account 2340.1 to read:

2340 Deferred income taxes.

* * * * *

T. Removing the account number, account title and account description of Account 2340.2, *Deferred Taxes Arising from Leveraged Leases.*

U. Removing the title and description of *Commitments and Contingent Liabilities* which immediately follows Account 2390, *Other Deferred Credits.*

V. Adding a new paragraph (e) to Account 2900 to read:

2900 Retained earnings.

* * * * *

(e) A separate subaccount to this account shall be maintained to record changes in the valuation of marketable equity securities included in noncurrent assets. Such changes shall be reflected in this subaccount to the extent the balance in this subaccount represents a net unrealized loss as of the current balance sheet date.

19. Section 7 would be amended by revising accounts 06, 25, 42, 43, 46, 59, 72, and 76; combining accounts 80, 87 and 89; and combining accounts 82, 83 and 84 to read:

PROFIT AND LOSS CLASSIFICATION

SECTION 7.—CHART OF PROFIT AND LOSS ACCOUNTS

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
OPERATING REVENUES AND EXPENSES			
Transport revenues:			
* * * * *			
06 Property:			
06.1 Freight	31, 32	31, 32	31,32
06.2 Excess passenger baggage	31, 32	31, 32	31, 32
* * * * *			
25 Maintenance labor:			
25.1 Labor-airframes and other flight equipment.		52	52
25.2 Labor-aircraft engines		52	52
25.6 Labor-flight equipment	52		
25.9 Labor-ground property and equipment	52, 53	52, 53	52, 53
* * * * *			
42 General services purchased-associated companies:			
42.1 Airframe and other flight equipment repairs-associated companies.		52	52
42.2 Aircraft engine repairs-associated companies.		52	52
42.6 Flight equipment repairs-associated companies.	52		
42.7 Aircraft interchange charges-associated companies.	51, 52	51, 52	51, 52
42.8 General interchange service charges-associated companies.	52, 69	52, 55, 64, 67, 68	52, 55, 61, 62, 63, 65, 66, 68
42.9 Other services-associated companies	52, 53, 69	52, 53, 55, 64, 67, 69	52, 53, 55, 61, 62, 63, 65, 66, 68

SECTION 7.—CHART OF PROFIT AND LOSS ACCOUNTS—Continued

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
43 General services purchased-outside:			
43.1 Airframe and other flight equipment repairs-outside.		52	52
43.2 Aircraft engine repairs-outside		52	52
43.6 Flight equipment repairs-outside	52		
43.7 Aircraft interchange charges-outside	51, 52	51, 52	51, 52
43.8 General interchange service charges-outside.	52, 69	52, 55, 64, 67, 68	52, 55, 61, 62, 63, 65, 66, 68
43.9 Other services-outside	52, 53, 69	52, 53, 55, 64, 67, 68	52, 53, 55, 61, 62, 63, 65, 66, 68
* * * * *			
46 Maintenance materials:			
46.1 Airframes and other flight equipment		52	52
46.2 Aircraft engines		52	52
46.6 Flight equipment	52		
46.9 Ground property and equipment	52, 53	52, 53	52, 53
* * * * *			
59 Schedules and timetables	69	67	65, 66
* * * * *			
72 Aircraft overhauls:			
72.1 Airworthiness allowance provisions-airframes.	52, 53	52, 53	52, 53
72.3 Airframe overhauls deferred	52, 53	52, 53	52, 53
72.6 Airworthiness allowance provisions-aircraft engines.	52, 53	52, 53	52, 53
72.8 Aircraft engine overhauls deferred	52, 53	52, 53	52, 53
* * * * *			
76 Amortization expense, capital leases:			
76.1 Amortization-capitalized flight equipment.	70	70	70
76.2 Amortization-capitalized other property and equipment.	70	70	70
* * * * *			
NONOPERATING INCOME AND EXPENSE			
81 Interest on long-term debt and capital leases:			
81.1 Interest expense, long-term debt	81	81	81
81.2 Interest expense, capital leases	81	81	81
82 Other interest:			
82.1 Interest expense, short-term debt	81	81	81
83.1 Imputed interest capitalized-credit	81	81	81
83.2 Imputed interest deferred-debit	81	81	81
83.3 Imputed interest deferred-credit	81	81	81
83.4 Interest capitalized-credit	81	81	81
84.1 Amortization of discount and expense on debt.	81	81	81
84.2 Amortization of premium on debt	81	81	81
85 Foreign exchange gains and losses	81	81	81
89 Other nonoperating income and expense-net:			
80.0 Interest income	81	81	81
86.0 Income from nontransport ventures	81	81	81
87.0 Equity in income of investor controlled companies.	81	81	81
88.1 Intercompany transaction adjustment-credit.	81	81	81
88.2 Dividend income	81	81	81
* * * * *			

20. Section 9, *Functional Classification—Operating Revenues,* would be amended by revising functions 3100 and 3200 to read:

* * * * *

3100 Scheduled services.

This subclassification shall include revenues from the transportation by air of individual passengers or cargo shipments (as opposed to charter flights) pursuant to published schedules, including extra sections and other flights performed as an integral part of published flight schedules.

3200 Nonscheduled services.

This subclassification shall include revenues from the transportation by air of traffic applicable to the performance of aircraft charters, and other air transportation services not part of services performed pursuant to published flight schedules (but shall not include data applicable to flights performed as extra sections to published flight schedules, which shall be reported in the subclassification 3100 Scheduled Services).

21. Section 10, *Functional Classification—Operating Expenses of Group I Air Carriers,* would be amended by:

A. Revising paragraph c. of function 5300 to read:

5300 Maintenance burden.

* * * * *

c. This subfunction shall include only those expenses attributable to the current air transport operations of the air carrier. Maintenance burden associated with capital projects of the air carrier, other than overhauls of airframes and aircraft engines, shall be allocated to such projects in accordance with the provisions of section 2-9(b). Maintenance burden incurred in common with services to other companies and operating entities shall be allocated to such services on a pro rata basis unless the services are so infrequent in performance or small in volume as to result in no appreciable demands upon the air carrier's maintenance facilities. When overhauls of airframes or aircraft engines are as a consistent practice accounted for on an accrual basis instead of being expensed directly, maintenance burden shall be allocated to such overhauls on a pro rata basis. Standard burden rates may be employed for quarterly allocations of maintenance burden provided the rates are reviewed at the close of each calendar year. When the actual burden rate for the year differs materially from the standard burden rate applied, adjustment shall be made to reflect the actual cost incurred for the full accounting year. Allocations of maintenance burden to capital projects, and service sales to others shall be effected through the individual maintenance burden objective accounts, except that the air carrier may effect such allocations by credits to profit and loss account 77 Uncleared Expense Credits under circumstances in which the use of that account will not undermine the significance of the individual maintenance burden objective accounts in terms of the expense levels associated with the air carrier's air transport services. Maintenance burden allocated to overhauls shall be credited to profit and loss subaccounts 5372.1 or 5372.6 Airworthiness Allowance Provisions.

B. Revising function 7000 to read:

7000 Depreciation and amortization.

This function shall include all charges to expense to record losses suffered through current exhaustion of the serviceability of property and equipment due to wear and tear from use and the action of time and the elements, which are not replaced by current repairs as well as losses in serviceability occasioned by obsolescence, supersession, discoveries, change in popular demand or action by public authority. It shall also include charges for the amortization of capitalized developmental and preoperating costs, leased property under capital leases and other intangible assets applicable to the performance of air transportation. (See sections 2-20, 5-5 and 6-1696, 1830 and 1890).

C. Removing paragraph (d) of function 7100 *Transport-Related Expenses.*

22. Section 11, *Functional Classification—Operating Expenses of Group II and Group III Air Carriers,* would be amended by:

A. Revising paragraph c. of function 5300 to read:

5300 Maintenance burden.

* * * * *

c. This subfunction shall include only those expenses attributable to the current air transport operations of the air carrier. Maintenance burden associated with capital projects of the air carrier, other than overhauls of airframes and aircraft engines, shall be allocated to such projects in accordance with the provisions of section 2–9(b). Maintenance burden incurred in common with services to other companies and operating entities shall be allocated to such services on a pro rata basis unless the services are so infrequent in performance or small in volume as to result in no appreciable demands upon the air carrier's maintenance facilities. When overhauls of airframes or aircraft engines are as a consistent practice accounted for on an accrual basis instead of being expensed directly, maintenance burden shall be allocated to such overhauls on a pro rata basis. Standard burden rates may be employed for quarterly allocations of maintenance burden provided the rates are reviewed at the close of each calendar year. When the actual burden rate for the year differs materially from the standard burden rate applied, adjustment shall be made to reflect the actual costs incurred for the full accounting year.

Allocations of maintenance burden to capital projects, and service sales to others shall be effected through the individual maintenance burden objective accounts, except that the air carrier may effect such allocations by credits to profit and loss account 77 Uncleared Expense Credits under circumstances in which the use of that account will not undermine the significance of the individual maintenance burden objective accounts in terms of the expense levels associated with the air carrier's air transport services. Maintenance burden allocated to overhauls shall be credited to profit and loss subaccounts 5372.1 or 5372.6 Airworthiness Allowance Provisions.

B. Revising function 7000 to read:

7000 Depreciation and amortization.

This function shall include all charges to expense to record losses suffered through current exhaustion of the serviceability of property and equipment due to wear and tear from use and the action of time and the elements, which are not replaced by current repairs, as well as losses in serviceability occasioned by obsolesence, supersession, discoveries, change in popular demand or action by public authority. It shall also include charges for the amortization of capitalized developmental and preoperating costs, leased property under capital leases, and other intangible assets applicable to the performance of air transportation. (See section 2–20, 5–5 and sections 6–1696, 1830 and 1890).

C. Removing paragraph (d) of function 7100, *Transport-Related Expenses.*

23. Section 12, *Objective Classification—Operating Revenues and Expenses,* would be amended by:

A. Revising paragraph (c) of account 06 to read:

06 Property.

* * * * *

(c) This account shall be subdivided as follows by all air carrier groups:

06.1 *Freight.*

Record here revenue from the transportation by air of property other than passenger baggage.

06.2 *Excess Passenger Baggage.*

Record here revenue from the transportation by air of passenger baggage in excess of fixed free allowance.

B. Revising paragraph (c) of account 07 to read:

07 Charter.

* * * * *

(c) This account shall be subdivided as follows by all air carrier groups:

07.1 *Passenger.*

Record here revenue from the transportation of passengers and their personal baggage.

07.2 *Property.*

Record here revenue from the transportation of property.

C. Revising account 08 to read:

08 Public service revenues (Subsidy).

Record here amounts of compensation received pursuant to the provisions of section 419 of the Federal Aviation Act under rates established by the Civil Aeronautics Board for the provision of essential air service to small communities.

D. Revising paragraph (b) of account 25 to read:

25 Maintenance labor.

* * * * *

(b) This account shall be sudbivided as follows:

Group II and Group III Air Carriers

25.1 *Labor—Airframes and Other Flight Equipment.*

Record here the direct labor expended upon airframes, spare parts related to airframes, and other flight equipment (Other than aircraft engines and spare parts related to aircraft engines). Other flight equipment shall include instruments, which encompass all gauges, meters measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines which are maintained separately from airframes and aircraft engines.

25.2 *Labor—Aircraft Engines.*

Record here the direct labor expended upon aircraft engines and spare parts related to aircraft engines.

Group I Air Carriers

25.6 *Labor—Flight Equipment.*

Record here the direct labor expended upon flight equipment of all types and classes.

All Air Carrier Groups

25.9 *Labor-Ground Property and Equipment.*

Record here the direct labor expended upon ground property and equipment of all types and classes. Direct labor expended upon general ground properties shall be charged to subfunction 5200 Direct Maintenance; and direct labor expended upon maintenance buildings and equipment shall be charged to subfunction 5300 Maintenance Burden.

E. Amending paragraph (c) of account 42 by revising the account title and account description of subaccount 42.1 and removing subaccount 42.3 to read:

42 General services purchased—Associated companies.

* * * * *

(c) This account shall be subdivided as follows by each air carrier group:

Group II and Group III Air Carriers

42.1 *Airframe and Other Flight Equipment Repairs—Associated Companies.*

Record here charges by associated companies for maintenance or repair of airframes and spare parts related to airframes owned or leased by the air carrier. Charges by associated companies for maintenance or repair of other flight equipment (including instruments) owned or leased by the air carrier, excluding aircraft engines and spare parts related to aircraft engines, shall also be recorded here. Instruments shall include all gauges, meters, measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines, which are maintained separately from airframes and aircraft engines. Charges by associated companies for maintenance of airframes and other flight equipment provided under aircraft interchange agreements shall not be included in this subaccount but in subaccount 42.7 Aircraft Interchange Charges-Associated Companies.

* * * * *

F. Amending paragraph (c) of account 43 by revising the account title and account description for subaccount 43.1 and removing subaccount 43.3 to read:

43 General services purchased—Outside.

* * * * *

(c) This account shall be subdivided by each air carrier group as follows:

Group II and Group III Air Carriers

43.1 *Airframe and Other Flight Equipment Repairs—Outside.*

Record here charges for maintenance or repair of airframes and spare parts related to airframes owned or leased by the air carrier. Charges for maintenance or repair of other flight equipment (including instruments) owned or leased by the air carrier, excluding aircraft engines and spare parts related to aircraft engines, shall also be recorded here. Instruments shall include all gauges, meters, measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines, which are maintained separately from airframes and aircraft engines. Charges by others for maintenance of flight equipment provided under aircraft interchange agreements shall not be included in this subaccount but in subaccount 43.7 Aircraft Interchange Charges-Outside.

* * * * *

G. Amending paragraph (b) of account 46 by revising the account title and account description of subaccount 46.1 and removing subaccount 46.3 to read:

46 Maintenance materials.

* * * * *

(b) This account shall be subdivided as follows:

46.1 *Materials—Airframes and Other Flight Equipment.*

Record here the cost of materials and supplies consumed directly in maintenance of airframes and spare parts related to airframes. Other flight equipment (including instruments), excluding aircraft engines and spare parts related to aircraft engines, shall also be recorded here. Instruments shall include all guages, meters, measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines, which are maintained separately from airframes and aircraft engines.

* * * * *

H. Revising the account title and account description of account 59 to read:

59 Schedules and timetables.

Record here the production and distribution cost, excluding compensation of air carrier personnel, of all operating schedules, timetables, circulars and related quick reference charts.

I. Revising paragraph (b) of account 72 to read:

72 Aircraft overhauls.

* * * * *

(b) This account shall be subdivided as follows by all carrier groups:

72.1 *Airworthiness Allowance Provisions—Airframes.*

Record here current provisions for effecting an equitable distribution of airframe overhaul costs between different accounting periods. Record here also credits for airframe overhaul costs incurred in the current period which have been charged against related airworthiness allowances.

72.3 *Airframe Overhauls Deferred.*

Record here airframe overhauls of the current period transferred to subaccount 1601.2, Unamortized Airframe Overhauls, and the amount of deferred airframe overhaul costs amortized for the current period.

72.6 *Airworthiness Allowance Provisions-Aircraft Engines.*

Record here curent provisions for effecting an equitable distribution of aircraft engine overhaul costs between different accounting periods. Record here also credits for aircraft engine overhaul costs incurred in the current period which have been charged against related airworthiness allowances.

72.8 *Aircraft Engine Overhauls Deferred.*

Record here airframe overhauls of the current period transferred to subaccount 1602.2, Unamortized Aircraft Engine Overhauls, and the amount of deferred aircraft engine overhaul costs amortized for the current period.

J. Revising account 76 to read:

76 Amortization expense—Capital leases.

(a) Record here amortization charges applicable to assets recorded under capital leases in Account 1695—Leased Property under Capital Leases.

(b) This account shall be subdivided as follows by all air carrier groups:

76.1 *Amortization—Capitalized Flight Equipment.*

Record here amortization charges applicable to flight equipment acquired under capital leases.

76.2 *Amortization—Capitalized Other Property and Equipment.*

Record here the amortization charges applicable to property and equipment, other than flight equipment, acquired under capital leases.

24. Section 14, *Objective Classification-Nonoperating Income and Expenses,* would be amended by:

A. Revising the account description of account 80, to read:

80 Interest income.

Included under account 89 Other Nonoperating Income and Expense-Net.

B. Revising the title and account description of account 82, *Other Interest Expenses,* to read:

82 Other interest.

(a) This account shall be subdivided as follows by all air carrier groups:

82.1 *Interest Expense—Short-Term Debt.*

Record here interest on all classes of short-term debt.

83.1 *Imputed Interest Capitalized-Credit.*

Record here credits related to imputed interest capitalized pursuant to section 2-10 and recorded in assets accounts.

83.2 *Imputed Interest Deferred—Debit.*

Record here debits related to imputed interest deferred pursuant to section 2-10 in balance sheet account 2390 Other Deferred Credits.

83.3 *Imputed Interest Deferred—Credit.*

Record here periodic credits pursuant to section 2-10 for imputed interest, cleared to this account as the amount of such interest in the asset accounts is amortized.

83.4 *Interest Capitalized—Credit.*

Record here interest which is capitalized pursuant to section 2-10 and recorded in asset accounts.

84.1 *Amortization of discount and expense on debt.*

Record here for all classes of debt the amortizations of discount and expense on short-term and long-term obligations.

84.2 *Amortization of premium on debt.*

Record here for all clases of debt the amortizations of premium on short-term and long-term obligations.

C. Revising the account description of account 83 to read:

83 Capitalized interest.

Included under account 82 Other Interest.

D. Revising the account description of account 84 to read:

84 Amortization of debt discount, premium and expense.

Included under account 82 Other Interest.

E. Revising the title and account description of account 87, *Income from Investor Controlled Companies,* to read:

87 Equity in income of investor controlled companies.

Included under account 89 Other Nonoperating Income and Expense-Net.

F. Amending paragraph (b) of account 89 by adding new subaccounts 80.0 and 87.0, and revising the account descriptions of subaccounts 86.0 and 89.9 to read:

89 Other nonoperating income and expense—Net.

* * * * *

(b) This account shall be subdivided as follows by all air carrier groups:

80.0 *Interest Income.*

(a) Record here interest income from all sources. This account shall include as an increase or reduction of interest received the proportionate amortization of any discount or

premium on the purchase price of securities of others held by the air carrier.

(b) This account shall not include interest on securities issued or assumed by the air carrier and subsequently reacquired.

86.0 *Income from Nontransport Ventures.*

(a) Record here the gross revenues and expenses applicable to operations not reasonably considered as incidental to the commercial air transport services of the accounting entity; rents from nonoperating properties used by others; income or loss from nontransport divisions; and other income of loss from activities of the air carrier which are extraneous to the air transport and incidental services of the accounting entity.

(b) This account shall include revenues and expenses applicable to nonscheduled transport services performed for the defense establishment when separate reports for such services are required in accordance with section 21 "Introduction of System of Reports." Where the foregoing transport services are not required to the separately reported, gross revenues from such services shall be included in profit and loss account 07 Charter, or other appropriate revenue account, and gross expenses shall be inlcuded in the appropriate operating expense functions.

87.0 *Equity in Income of Investor Controlled Companies.*

Record here the equity in the current earnings or losses of investor controlled companies. Dividends declared on the stock of such companies shall not be included in ths account as income but shall be entered in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies as a return on investment.

* * * * *

89.9 *Other Miscellaneous Nonoperating Debits.*

Record here all debits of a nonoperating character not provided for otherwise, such as the following:

(a) Fines or penalties imposed by governmental authorities;

(b) Costs associated with employment discrimination that include the following:

(1) Fines or penalties paid by the carrier as a result of a judicial or administrative decree; or the amount paid to the complainant in settling or securing a consent decree;

(2) Back pay award as a result of a judicial or administrative decree or a compromise settlement regardless of admission of guilt;

(3) Attorneys' fees or court costs awarded to the complainant by a judicial or administrative decree or as a result of a compromise settlement regardless of admission of guilt;

(4) The fees of outside legal counsel or of experts retained in the unsuccessful defense of a discrimination suit or in securing a compromise settlement or consent decree, unless the amounts attributable to the discrimination are not reasonably identifiable; or

(5) Any other expenses, such as employee salaries, resulting from employment practices that were found to be discriminatory or that were the subject of a compromise settlement or consent decree where the amounts attributable to discrimination are reasonably identifiable.

(c) Amortization expense attributable to capital leases recorded in balance sheet Account 1795, Leased Property under Capital Leases;

(d) Costs related to property held for future use;

(e) Donations for charitable, social or community welfare purposes;

(f) Losses on reacquired and retired or resold debt securities of the air carrier;

(g) Losses resulting from troubled debt restructurings;

(h) Losses on uncollectible nonoperating receivables; or

(i) Accruals to allowance for uncollectible nonoperating receivables.

25. Section 19, *Uniform Classification of Operating Statistics,* would be amended by:

A. Revising section 19–1 to read:

§ 19–1 Chart of operating statistical elements.

Air transport traffic and capacity elements	Service classes
Airport-to-Airport Traffic and Capacity	
501 Interairport distance	Z.
110 Revenue passengers enplaned	A, C, E, G, L, N, P, R.
111 First class	A, E.
112 Coach	C, E.
210 Revenue cargo tons enplaned	A, C, E, G, L, N, P, R.
213 U.S. mail-priority	A, C, E, G, L, N, P, R.
214 U.S. mail-nonpriority	A, C, E, G, L, N, P, R.
215 Foreign mail	A, C, E, G, L, N, P, R.
217 Freight	A, C, E, G, L, N, P, R.
130 Revenue passengers transported	A, C, E, G, L, N, P, R.
131 First class	A, E.
132 Coach	C, E.
150 Nonrevenue passengers transported.	A, C, E, G, L, N, P, R.
230 Revenue tons transported	A, C, E, G, L, N, P, R.
231 Passenger	A, C, E, G, L, N, P, R.
233 U.S. mail-priority	A, C, E, G, L, N, P, R.
234 U.S. mail-nonpriority	A, C, E, G, L, N, P, R.
235 Foreign mail	A, C, E, G, L, N, P, R.
236 Express	A, C, E, G, L, N, P, R.
237 Freight	A, C, E, G, L, N, P, R.
250 Nonrevenue tons transported	A, C, E, G, L, N, P, R.
310 Seats available	A, C, E, G, L, N, P, R.
311 First class	A, E, G.
312 Coach	C, E, G.
270 Tons available	A, C, E, G, L, N, P, R.
410 Revenue aircraft miles flown	A, C, E, G, L, N, P, R.
411 Scheduled	A, C, E, G.
412 Extra section	A, C, E, G.
430 Revenue aircraft miles scheduled	A, C, E, G.
431 Scheduled aircraft miles completed.	A, C, E, G.
510 Revenue aircraft departures performed.	A, C, E, G, L, N, P, R.
511 Scheduled service	A, C, E, G.
Extra section	A, C, E, G.
520 Revenue aircraft departures scheduled.	A, C, E, G.
521 Scheduled aircraft departures scheduled.	A, C, E, G.
Aircraft Operations	
420 Revenue aircraft miles flown	Z.
610 Revenue aircraft hours (airborne)	A, C, E, G, L, N, P, R.
620 Nonrevenue aircraft hours (airborne).	Z.
630 Aircraft hours (ramp-to-ramp)	A, C, E, G, L, N, P, R.
Miscellaneous Operating Elements	
810 Aircraft days assigned to service-carrier's equipment.	Z.
820 Aircraft days assigned to service-carrier's routes.	Z.
830 Hours on other carriers' interchange equipment (airborne).	Z.
921 Aircraft fuels issued (gallons)	Z.
922 Aircraft oils issued (gallons)	Z.

B. Removing paragraph (g) of Section 19–2, *Maintenance of Data.*

C. Revising paragraph (a) 19–3 to read:

§ 19–3 Accessibility and Transmittal of data.

(a) Each air carrier shall maintain its prescribed operating statistics in a manner and at such locations as will permit ready availability for examination by representatives of the Board. All Group III carriers shall transmit to the Board on a monthly basis individual flight stage data for scheduled services as prescribed in Section 19–5, summarized by flight number, service class and aircraft type. Group III air carriers shall utilize either ADP tapes or ADP punched cards for transmitting the prescribed data to the Board unless otherwise specifically permitted by the Board's Office of Comptroller to provide flight stage data on Schedule T–9. All Group I carriers and Group II carriers shall transmit to the Board on a monthly basis individual flight data for scheduled services as prescribed in the reporting instructions for Schedule T–9 in Section 25 of this Part.

* * * * *

D. Revising paragraphs (a) and (b) of section 19–4 to read:

§ 19–4 Service classes.

* * * * *

(a) *Scheduled services.* For scheduled services, which shall include traffic and capacity elements, applicable to air transportation performed pursuant to published schedules, extra sections and other flights performed as an integral part of the published flight schedules, the following classifications shall be maintained, as applicable:

A000 Scheduled First Class Passenger—Cargo Service.

C000 Scheduled Coach Passenger—Cargo Service.

E000 Scheduled Mixed Passenger—Cargo Service.
G000 Scheduled Cargo Service.

(b) *Nonscheduled services.* For nonscheduled services, which shall include all traffic and capacity elements applicable to the performance of aircraft charters, and other air transportation services not constituting an integral part of services performed pursuant to published flight schedules (but shall not include data applicable fo flights performed as extra sections to published flight schedules, which shall be reported in the appropriate classification of scheduled services), the following classifications shall be maintained, as applicable:

L000 Nonscheduled Civilian Passenger—Cargo Service.
N000 Nonscheduled Military Passenger—Cargo Service.
P000 Nonscheduled Civilian Cargo Service.
R000 Nonscheduled Military Cargo Service.

* * * * *

E. Paragraph (e) of section 19–5 is amended by removing and replacing the introductory paragraph and elements Z501 through X250 under the heading "Airport-to-Airport Traffic and Capacity Data" and by revising the elements under the headings "Aircraft Operations" and "Miscellaneous Operating Elements" to read as follows:

§ 19–5 Air transport traffic and capacity elements.

* * * * *

(e) The elements, by category and alpha-numeric code, for which data are to be maintained in accordance with the above are as follows:

Airport-To-Airport Traffic and Capacity Data

Z501 *Interairport distance.* The great circle distance, in statute miles, between airports served by each flight stage. Official interairport mileages are available from the Board's Data Services Section, Information Management Division, Office of Comptroller.

X110 *Revenue passengers enplaned.* The number of revenue passengers enplaned. Data shall be maintained with respect to such enplanements to show for each airport subsequently served by each flight, the number of deplaning revenue pasengers, i.e., the on-flight origin and destination therof. Separate data shall be maintained as follows:

X111 First class.
X112 Coach.

X210 *Revenue cargo tons enplaned.* The total of revenue cargo tons enplaned. Data shall be maintained with respect to such enplanements to show for each airport subsequently served by each flight, the tons of deplaning revenue traffic, i.e., the on-flight origin and destination thereof, for each of the following classes:

X213 U.S. mail—priority.
X214 U.S. mail—nonpriority.
X215 Foreign mail.
X217 Freight.

X130 *Revenue passengers transported.* The number of revenue passengers transported. Separate data shall be maintained as follows:

X131 First class.
X132 Coach.

X150 *Nonrevenue passengers transported.* The number of nonrevenue passengers transported.

X230 *Revenue tons transported.* The number of tons of revenue traffic transported. Separate data shall be maintained for each of the following classes of traffic:

X231 Passenger.
X233 U.S. mail-priority.
X234 U.S. mail-nonpriority.
X235 Foreign mail.
X237 Freight.

X250 *Nonrevenue tons transported.* The number of nonrevenue tons of traffic transported.

* * * * *

Aircraft Operations

Z420 *Nonrevenue aircraft miles flown.* The nonrevenue aircraft miles flown based upon the airport-to-airport distance of each flight stage. In circumstances where an interairport movement is not involved, the mileage may be computed by converting nonrevenue aircraft hours at the appropriate speed for the particular flight.

X610 *Revenue aircraft hours (airborne).* The revenue aircraft hours flown based upon the airborne time of each aircraft movement.

Z620 *Nonrevenue aircraft hours (airborne).* The aircraft hours flown in nonrevenue service based upon the "airborne" time of each aircraft movement.

Z630 *Aircraft hours (ramp-to-ramp).* The aircraft hours flown in both revenue and nonrevenue services, based upon the "ramp-to-ramp" time of each aircraft movement.

Miscellaneous Operating Elements

Z810 *Aircraft days assigned to service-carrier's equipment.* The number of aircraft days that owned or rented aircraft are in the possession of the air carrier and assigned to services of the reporting air carrier or assigned to services of other carriers under aircraft interchange agreements. Aircraft days shall be allocated between operating entities as follows:

(1) Aircraft assigned exclusively to a particular operation shall be recorded for the operation to which assigned.

(2) Aircraft used interchangeably in two or more operating entities shall be prorated between entities on the basis of the ramp-to-ramp time the individual aircraft was in operation in each entity.

(3) The time of aircraft in maintenance or overhaul, or in reserve status, shall be assigned between operating entities on the basis of the relative ramp-to-ramp time all aircraft of the same type were in operation in each entity.

Z820 *Aircraft days assigned to service-carrier's routes.* The number of aircraft days that owned or rented aircraft and aircraft of others under interchange agreements are assigned to services performed by the air carrier.

Z830 *Hours on other carriers' interchange equipment (airborne).* The airborne hours flown with aircraft of others in both revenue and nonrevenue services of the air carrier under aircraft interchange agreements.

Z921 *Aircraft fuels issued (gallons).* The gallons of aircraft fuels issued during the current accounting period for both revenue and nonrevenue flights.

Z922 *Aircraft oils issued (gallons).* The gallons of aircraft engine oils issued during the current accounting period for both revenue and nonrevenue flights.

26. Section 21 would be amended by revising paragraphs (k) and (l) to read:

§ 21 Introduction to systems of reports.

* * * * *

(k) Generally, route air carriers nonscheduled services shall be treated as an integral part of the reporting entity to which most closely related without regard to the geographic area in which such nonscheduled services may actually be performed. However, supplemental reports shall be made of nonscheduled services (including service for the Department of Defense) in areas not encompassed by the prescribed reporting entity in any month in which the available ton-miles of such nonscheduled services exceed 5 percent of the available ton-miles of the reporting entity. Such supplemental reports shall continue until waived by the Board upon a showing that such nonscheduled operations will not in the subsequent 12-month period exceed the 5-percent limit. The supplemental reports to be filed each month or calendar quarter, as applicable, shall be comprised of report Schedules P–5, T–1, and T–2. Transport and nontransport revenues pertaining to such separately reported nonscheduled services shall be reported on Schedule P–2 each quarter.

(l) When and as required in the national interest, any air carrier which performs nonscheduled transport services for the Department of Defense shall, when directed by the Board, make separate reports for such services as if they were conducted by a physically separate transport entity, such reports shall consist of Schedules P–1 through P–8, T–1, and T–2. The letter "D" shall be inserted on such reports, following the schedule number of each P and T schedule. When a carrier has more than one reporting entity, nonscheduled transport and nonscheduled Defense services shall be assigned to the reporting entity to which more closely related.

27. Section 22 would be amended by revising the List of Schedules in CAB Form 41 Report and the Due Dates of Schedules in CAB Form 41 Report in paragraph (a), by revising subparagraph

(1) of paragraph (b) and by removing and reserving paragraphs (d) and (k) to read:

§ 22 General reporting instructions.

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Title	Filing frequency	Applicability by carrier group		
			I	II	III
A	Certification	Q	(1)	X	X.
B-1	Balance Sheet	Q	(1)	X	X.
B-1.1	Balance Sheet	S-A	(1)		
B-7	Airframes and Aircraft Engines Acquired.	Q		X	X.
B-8	Flight Equipment Retired.	Q		X	X.
B-12	Statement of Changes in Financial Position.	Q	(1)	X	X.
B-43	Inventory of Airframes and Aircraft Engines.	A	X	X	X.
P-1.1	Statement of Operations.	S-A	(1)		
P-1.2	Statement of Operations.	Q	(1)	X	X.
P-1(a)	Interim Operations Report.	M	X	X	X.
P-2	Notes to CAB Form 41 Report.	Q	(1)	X	X.
P-5.1	Aircraft Operating Expenses.	Q(1)/S-A(3)	X		
P-5.2	Aircraft Operating Expenses.	Q		X	X.
P-6	Maintenance, Passenger Service and General Administrative Expense Functions.	Q	(1)	X	X.
P-7	Aircraft and Traffic Servicing, and Promotion and Sales Expense Functions—Group II and Group III Air Carriers.	Q		X	X.
P-8	Aircraft and Traffic Servicing, and Promotion and Sales Expense Subfunctions—Group III Air Carriers.	Q			X.
P-10	Employment Statistics by Labor Category.	A	(1)	X	X.
P-12(a)	Fuel Consumption by Type of Service and Entity.	M	(1)	X	X.
T-1(a)	Traffic and Capacity Statistics by Class of Service.	M	X	X	X.
T-1(b)	Traffic and Capacity Statistics by Class of Service—Scheduled Services.	M		X	X.
T-1(c)	Traffic and Capacity Statistics by Class of Service—Nonscheduled Services.	M		X	X.

LIST OF SCHEDULES IN CAB FORM 41 REPORT—Continued

Schedule No.	Title	Filing frequency	Applicability by carrier group		
			I	II	III
T-2	Traffic, Capacity, Aircraft Operations and Miscellaneous Statistics by Type of Aircraft.	Q	X	X	X.
T-3(a)	Airport Activity Statistics—Scheduled Revenue Service.	Q	X	X	X.
T-3(b)	Airport Activity Statistics—Scheduled Revenue Service.	Q	X	X	X.
T-3(c)	Airport Activity Statistics—Nonscheduled Revenue Service.	A	Q	X	X.
T-8	Report of All-Cargo Operations.	A	(3)	(3)	(3)
T-9	Nonstop Market Report.	M	X	X	
G-41	Persons Holding More than 5 Per Centum of Respondent's Capital Stock or Capital.	A	(3)	X	X.

M=Monthly; Q=Quarterly; S-A=Semiannually; A=Annually; X—All Carriers.

[1] Applicable to Group I air carriers with annual operating revenues of $10 million or more.
[2] Applicable to Group I air carriers with annual operating revenues below $10 million.
[3] Applicable to carriers conducting Section 418 all-cargo operations.

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due dates [1]	Schedule No.
Jan. 20	P-12(a).
Jan. 30	P-1(a), T-1, T-2, T-3, T-9.
Feb. 10 [2]	A, B-1, B-1.1, B-7, B-8, B-12, P-1.1, P-1.2, P-2, P-5.1, P-5.2, P-6, P-7, P-8, P-10.
Feb. 20	P-12(a).
Mar. 1	P-1(a), T-1, T-9.
Mar. 20	P-12(a).
Mar. 30	B-43, P-1(a), G-41, T-1, T-8, T-9.
Apr. 20	P-12(a).
Apr. 30	P-1(a), T-1, T-2, T-3, T-9.
May 10	A, B-1, B-7, B-8, B-12, P-1.2, P-2, P-5.1, P-5.2, P-6, P-7, P-8.
May 20	P-12(a).
May 30	P-1(a), T-1, T-9.
June 20	P-12(a).
June 30	P-1(a), T-1, T-9.
July 20	P-12(a).
July 30	P-1(a), T-1, T-2, T-3, T-9.
Aug. 10	A, B-1, B-1.1, B-7, B-8, B-12, P-1.1, P-1.2, P-2, P-5.1, P-5.2, P-6, P-7, P-8.
Aug. 20	P-12(a).
Aug. 30	P-1(a), T-1, T-9.
Sept. 20	P-12(a).
Sept. 30	P-1(a), T-1, T-9.
Oct. 20	P-12(a).
Oct. 30	P-1(a), T-1, T-2, T-3, T-9.
Nov. 10	A, B-1, B-7, B-8, B-12, P-1.2, P-2, P-5.1, P-5.2, P-6, P-7, P-8.
Nov. 20	P-12(a).
Nov. 30	P-1(a), T-1, T-9.
Dec. 20	P-12(a).
Dec. 30	P-1(a), T-1, T-9.

[1] Due dates falling on a Saturday, Sunday or national holiday will become effective the first following work day.
[2] B and P reporting due dates are extended to March 30 if preliminary schedules are filed at the Board by February 10.

(b) * * *

(1) The time for filing B and P report schedules for the final quarter or semiannual period of each calendar year may be extended to the following March 30 if the preliminary Schedules B-1 or B-1.1 and P-1.1 or P-1.2 are submitted, as applicable, and are received on or before their respective due dates.

* * * * *

(d) (Reserved.)

* * * * *

(k) (Reserved.)

28. Section 23, *Certification and Balance Sheet Elements,* would be amended by:

A. Revising the reporting instructions of Schedule B-1 to read:

Schedule B-1—Balance Sheet

(a) This schedule shall be filed by Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $10 million or more.

(b) This schedule shall reflect the balances at the close of business on the last day of each calendar quarter for the overall or system operations of each air carrier in conformance with the provisions of sections 4, 5 and 6.

(c) Individual proprietors or partners shall report the aggregate capital contributed by the proprietor or partners in account 2890 Additional Capital Invested.

B. Revising the title and paragraph (a) of the reporting instructions for Schedule B-1.1, *Balance Sheet for Small Air Carriers* to read:

Schedule B-1.1—Balance Sheet

(a) This schedule shall be filed semiannually by Group I air carriers with annual operating revenues below $10 million.

* * * * *

C. Removing the title and reporting instructions for Schedule B-3, *Statement of Changes in Stockholder's Equity.*

D. Removing the title and reporting instructions for Schedule B-5, *Property and Equipment.*

E. Revising the reporting instructions for Schedule B-7 to read:

Schedule B-7—Airframes and Aircraft Engines Acquired

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) The indicated data shall be reported for each individual airframe, identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall

be reported in aggregate for each type or model; however, aircraft engines obtained under capitalized leases shall be separately reported under a caption entitled: Capital Leases-Aircraft Engines. Airframe units leased from others for a period of more than 90 days shall be reported in a separate subsection of this schedule, captioned as follows: Capital Leases-Airframe Units; and Operating Leases-Airframe Units. In addition, a notation shall be made by license number of airframe units of the air carrier returned after lease to others for a period of more than 90 days. Airframe units obtained through interchange lease arrangements shall not be so reported.

(c) All dates shall indicate the day, the month and the year; shall be provided on a unit basis for airframes only; and, shall be reported for each aircraft engine group by date of transaction.

(d) Report shall be made in the quarter in which each airframe and each group of aircraft engines is actually acquired irrespective of whether the cost thereof is reflected in the property and equipment accounts during the current quarter or a subsequent quarter. If the cost data are not reflected in the current quarter a footnote to that effect shall accompany the report of acquisition. The costs shall be reported during the quarter in which determined and the equipment to which related shall be listed again in this schedule, with complete information, and shall be identified as being the same equipment reported at the earlier date.

(e) Column 2, "Date Placed in Transport Service" shall relate to airframes only and shall be the date on which each airframe was or will be placed in regular service by the reporting entity. If this date is not known at the time of submission of the report, an estimated date bearing the notation "estimate" shall be provided with the exact date shown by footnote on a subsequent Schedule B–7 in which the airframe is reidentified by license number, type of aircraft and date acquired.

(f) Column 8, "Maximum Seat Capacity" shall reflect the number of passenger seats installed in each airframe acquired. When the configuration of airframes provides sleeping accommodations, the passenger capacity shall be shown in terms of a sleeper version and non-sleeper version. When airframes are designed for multiple adjustable seating configurations, the maximum number of seats for which designed shall be reported. When the seating configuration of airframes is modified subsequent to original acquisition, the revised passenger capacity of each airframe shall be reported in the quarter in which modified and referenced to identify original capacity reported.

(g) Column 9, "Cost" shall reflect the book cost of airframes and aircraft engines acquired and the cost of improvements, betterments or other additions made to the acquired equipment.

F. Removing the title and reporting instructions of Schedule B–7(b), *Flight Equipment Acquired.*

G. Revising the title and reporting instructions of Schedule B–8, *Property and Equipment Retired* to read:

Schedule B–8—Flight Equipment Retired

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) The indicated data shall be reported for the sale or retirement of each airframe, each type of aircraft engine (stating the number of units retired) and, to the extent retired along with airframes and engines, in aggregates by accounts, for operating property and equipment included in Accounts 1603 through 1608 and nonoperating property and equipment included in Accounts 1703 through 1708. Disposition of properties in Accounts 1608 and 1708 not related to airframe and aircraft engine retirements shall be reported in a separate group for each account. Airframe units leased from others for a period of more than 90 days shall be reported, upon return to the lessor, in a separate subsection of this schedule and captioned as follows: Capital Leases-Airframe Units; and Operating Leases-Airframe Units. In addition a notation shall be made by license number and name of lessee of airframe units leased to others for a period of more than 90 days; moreover, airframe unit leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule. Airframe units leased under interchange arrangements shall not be so reported. Aircraft engines obtained under capital leases shall be separately reported under a caption entitled: Capital Leases-Aircraft Engines. Additionally, aircraft engines leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule.

(c) Retirements shall be listed in the numerical sequence of the property and equipment account to which related.

(d) All dates shall include the day, the month and the year of each transaction.

(e) Column 7, "Cost" shall reflect the book cost of the retired property.

(f) Column 9, "Realization" shall reflect the proceeds from disposition, including any insurance proceeds.

(g) Column 10, "Disposition" shall reflect the name of the person or organization to which airframes and aircraft engine are sold or a notation as to the nature of the retirement and the account to which any depreciated cost has been charged, if not sold. Items included in accounts 1607, 1608, 1707, and 1708, sold as a part of airframe or aircraft engine sales transactions, shall also be identified by the name of the buyer. Other sales of items included in these accounts shall be reported in a separate group in aggregate for each property account affected.

H. Removing the title and reporting instructions of Schedule B–10, *Unamortized Developmental and Preoperating Costs.*

I. Revising the reporting instructions for Schedule B–12 to read:

Schedule B–12—Statement of Changes in Financial Position

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $10 million or more.

(b) This schedule shall be filed for the overall or system operations of the air carrier.

(c) In determining working capital generated by operations, net income as reported on Schedule P–1.1 or Schedule P–1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. Those items which do not generate working capital in the current period shall be included net on line 6 "Other." If the amount reported on line 6, line 12, or line 18 exceeds 5 percent of the total sources or applications, a footnote shall be added to this schedule disclosing the component amounts.

(d) Generally, all items shall be reported in gross amounts. Items not resulting in net working capital changes such as exchanges of bonds or capital stock for fixed assets shall be reported as a source of working capital from the incurrence of debt or issuance of stock and a concurrent application of working capital for the asset acquisition. Likewise, the conversion of debt for capital stock shall be reported as a source of working capital for capital stock issued and an application of working capital for the debt retired.

J. Removing the title and reporting instructions of Schedule B–13, *Summary of Projected Financial Commitments and Related Deposits.*

K. Removing the title and reporting instructions of Schedule B–41, *Receivables, Payables and Investments Relating to Affiliates and Other Investment Data.*

L. Revising the reporting instructions for Schedule B–43 to read:

Schedule B–43—Inventory of Airframes and Aircraft Engines

(a) This schedule shall be filed by all Group I, Group II and Group III air carriers.

(b) The indicated data shall be reported for each individual airframe, identified by type, model and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported on a group basis by type of engine and by type of aircraft to which related. Airframes that are authorized for operation over water under FAA regulation FAR 121 shall be so indicated by footnote.

(c) Data in this schedule shall be grouped and subtotaled as data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operation equipment. Data pertaining to airframes and aircraft engines obtained under operating and capital leases shall be reported, by type of lease, in a separately captioned grouping below nonoperating airframes and aircraft engines and subgrouped within those groups according to operating and nonoperating equipment.

(d) The data to be reported shall include owned and leased airframes and aircraft engines currently in operation or in conversion. Data pertaining to airframes and aircraft engines obtained under operating and capital leases shall be captioned, by type of lease, separately from owned equipment.

(e) Data pertaining to airframes and aircraft engines obtained under operating leases shall be listed in columns 1 through 5 and in column 11; the cost of improvements to equipment under operating leases shall be reported in columns 6 through 10.

(f) Column 6 "Acquired Cost or Capitalized Value" shall include (1) the acquisition cost of owned airframes and aircraft engines; (2) the total capitalized cost of obtaining airframes and engines under capital leases; and (3) the cost of improvements to airframes and engines obtained under operating leases.

(g) Column 7 "Allowance for Depreciation or Amortization" shall include (1) the accumulations of all provisions for losses due to use and obsolescence that are applicable to owned airframes and aircraft engines and (2) the amount of amortization recorded for amortizing the value of airframes and engines obtained under capital leases.

(h) Column 8 "Depreciated Cost or Amortized Value" shall be calculated as either (1) Acquired Cost (column 6) less the Allowance for Depreciation (column 7) or (2) Capitalized Value (column 6) less Amortization (column 7).

(i) Column 9 "Estimated Residual Value" shall state in dollars the residual value assigned to owned and capital-leased airframes and aircraft engines, including any overhaul value not subject to depreciation.

(j) Column 10 "Estimated Depreciable or Amortizable Life (Months)" shall state the estimated depreciable or amortizable life from the date of acquisition of each airframe and each group of aircraft engines.

(k) Column 11 "Available Capacity (Weight)" shall reflect, for each reported aircraft type, the available capacity (stated in pounds) that is used in computing the available ton-miles reported on Schedules T–1 and T–2.

M. Removing the title and reporting instructions of Schedule B–43.1, *Aircraft Inventory Data—Small Air Carriers.*

N. Removing the title and reporting instructions of Schedule B–46, *Long-Term and Short-Term Nontrade Debt.*

29. Section 24, *Profit and Loss Elements,* would be amended by:

A. Revising the title and paragraph (a) of the reporting instructions of Schedule P–1.1, *Statement of Operations for Small Air Carriers to read:*

Schedule P–1.1—Statement of Operations

(a) This schedule shall be filed semiannually by Group I air carriers with annual operating revenues below $10 million. Data reported on this schedule shall be for the overall or system operations of the air carrier.

* * * * *

B. Revising paragraphs (a) and (d) and removing and reserving paragraph (e) of the reporting instructions of Schedule P–1.2 to read:

Schedule P–1.2—Statement of Operations

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $10 million or more.

* * * * *

(d) Data reported in the "12 Months-to-Date" column shall represent for each item the sum of amounts reported in the "Quarter" column for the current and next previous three quarters.

(e) (Reserved)

* * * * *

C. Revising paragraphs (a) and (i) and removing and reserving paragraphs (h) and (q) of Schedule P–2 to read:

Schedule P–2—Notes to CAB Form 41 Report

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $10 million or more.

* * * * *

(h) (Reserved)

(i) Route air carriers shall note on this schedule all dividends declared in the current period on stocks of investor controlled companies.

* * * * *

(q) (Reserved)

D. Removing the title and reporting instructions of Schedule P–3, *Transport Revenues; Depreciation and Amortization; Nonoperating Income and Expense (Net).*

E. Removing the title and reporting instructions of Schedule P–3(a), *Income Taxes.*

F. Removing the title and reporting instructions of Schedule P–4, *Transport-Related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes in Prior Years; Explanation of Prior Period Adjustments and Dividends Declared.*

G.1. Removing Schedule P–5.1 and P–5.2—Aircraft Operating Expenses.

2. Removing Schedule P–5.1(a)—Statement of Aircraft Operating Expenses for Small Air Carriers.

3. Adding Schedule P–5.1 to read:

Schedule P–5.1—Aircraft Operating Expenses

(a) This schedule shall be filed by all Group I air carriers. Group I air carriers that have annual operating revenues of $10 million or more shall file this schedule quarterly. Group I air carriers that have annual operating revenues below $10 million shall file this schedule semiannually.

(b) Subject to the provisions of Section 22(a), quarterly reports are due on May 10, August 10, November 10 and February 10 for the first, second, third and fourth calendar quarters.

respectively. Semiannual reports are due on August 10 and February 10.

(c) Each carrier shall indicate in the space provided its full corporate name and an "X" shall be inserted in the appropriate box to indicate whether the data being reported are quarterly or six months data. The period-ending data shall be indicated in the space provided.

(d) Route and charter air carriers subject to the quarterly filing requirement shall file this schedule for each operating entity of the air carrier. Air carriers subject to the semiannual filing requirement shall file this schedule for the overall or system operations of the air carrier.

(e) This schedule shall show the direct and indirect expenses incurred in aircraft operations. Direct expense data applicable to each aircraft type operated by the carrier shall be reported in separate columns of this schedule. Each aircraft type reported shall be identified at the head of each column in the space provided. "Aircraft Type" refers to aircraft models such as B–707–100, B–707–200, DC–10–40, Beech–18, Piper PA–32, etc. Aircraft Type designations are prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material*, which is available from the Board's Information Management Division. In the space provided for "Aircraft Code" carriers shall insert the four digit code which is prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material* for the reported aircraft type.

(f) Direct aircraft operating expenses shall be reported in the following categories:

(1) Line 2 "Flying Operations (Less Rental)" shall be subdivided as follows:

(i) Line 3 "Pilot and Copilot" expense shall include pilots' and copilots' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(ii) Line 4 "Aircraft Fuel and Oil" expense shall include the cost of fuel and oil used in flight operations and nonrefundable aircraft fuel and oil taxes.

(iii) Line 5 "Other" expenses shall include general (hull) insurance, and all other expenses incurred in the in-flight operation of aircraft and holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status that are not provided for otherwise on this schedule.

(2) Line 6 "Total Flying Operations (Less Rentals)" shall equal the sum of lines 3, 4 and 5.

(3) Line 7 "Maintenance-Flight Equipment" shall include the cost of labor, material and related overhead expended by the carrier to maintain flight equipment, general services purchased for flight equipment maintenance from associated or other outside companies, and provisions for flight equipment overhauls.

(4) Line 8 "Depreciation and Rental-Flight Equipment" expense shall include depreciation of flight equipment, amortization of capitalized leases for flight equipment, provision for obsolescence and deterioration of spare parts, and rental expense of flight equipment.

(5) Line 9 "Total Direct Expense" shall equal the sum of lines 6, 7 and 8.

(g) Line 10 Indirect aircraft operating expenses shall be reported only in total for all aircraft types and shall be segregated according to the following categories:

(1) Line 11 "Flight Attendant Expense" shall include flight attendants' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(2) Line 12 "Traffic Related Expense" shall include traffic solicitor salaries, traffic commissions, passenger food expense, traffic liability insurance, advertising and other promotion and publicity expenses, and the fringe benefit expenses related to all salaries in this classification.

(3) Line 13 "Departure Related (Station) Expense" shall include aircraft and traffic handling salaries, landing fees, clearance, customs and duties, related fringe benefit expenses and maintenance and depreciation on ground property and equipment.

(4) Line 14 "Capacity Related Expense" shall include salaries and fringe benefits for general management personnel, recordkeeping and statistical personnel, lawyers and law clerks, and purchasing personnel; legal fees and expenses; stationery; printing; uncollectible accounts; insurance purchased-general; memberships; corporate and fiscal expenses; and all other expenses which cannot be identified or allocated to some other specifically identified indirect cost category.

(h) Line 15 "Total Indirect Expense" shall equal the sum of lines 11, 12, 13 and 14.

(i) Line 16 "Total Operating Expense" shall equal the sum of lines 9 and 15.

H. Adding separate reporting instructions for Schedule P–5.2 to read:

Schedule P–5.2—Aircraft Operating Expenses

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) Route and charter air carriers shall file this schedule for each operating entity of the air carrier.

(c) Data applicable to each aircraft type operated by the air carrier shall be reported in separate columns of this schedule. "Aircraft Type" refers to aircraft models (such as B–707–100, B–707–300, DC–9–30, etc.) that are prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material*, which is available from the Board's Information Management Division. In the space provided for "Aircraft Code" carriers shall insert the four digit code which is prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material* for the reported aircraft type. For route air carriers, expenses of operating aircraft provided by other carriers under interchange agreements shall be separately reported in total for all such aircraft as if for a distinct aircraft type. Interchange expenses applicable to aircraft of the same type as those owned or operated by the air carrier shall be distributed in summary memo form as item 98.1 and 98.2 to each aircraft type owned or operated by that air carrier. Aircraft types not generally used in revenue service shall be separately reported. If more than one type of aircraft is involved, a separation of data relating to each type of aircraft shall not be required.

(d) Each aircraft type for which a report is being made shall be identified at the head of each column in the space provided. Data applicable to aircraft designed primarily for cargo services and only incidentally used for passenger services shall be reported in separate columns, and the word "cargo" shall be inserted after the aircraft type at the head of the column. The prescribed reporting by aircraft types may be reviewed from time to time upon request by individual air carriers, or upon the initiative of the Board, and groupings of aircraft types for reporting purposes may be prescribed or amended in specific instances.

(e) Italicized codes and item titles do not constitute accounts or account numbers prescribed for air carrier accounting, but shall be used for reporting purposes only.

(f) Item 79.6 "Applied Maintenance Burden" shall reflect a memorandum allocation by each air carrier of the total expenses included in subfunction 5300 "Maintenance Burden" between maintenance of flight equipment, by aircraft type, and maintenance of ground property and equipment in accordance with item (g) of the instructions for Schedule P–6. The amount reported for this item, in aggregate for all aircraft types, shall

agree with the amount reported for the same item reflected on Schedule P–6.

(g) Item 73 "Obsolescence and Deterioration-Expendable Parts" shall reflect (for obsolescence and deterioration of flight equipment expendable parts) the gross provisions for losses in value of expendable parts during the current accounting period offset by any credits applicable to the current period for adjustments for excess inventory levels determined pursuant to section 6–1311.

(h) The total of function 5100 "Flying Operations" reported on this schedule shall agree with corresponding amounts reported on Schedule P–1.2 and the total of item 5278 "Total Direct Maintenance—Flight Equipment" shall agree with the corresponding amount reported in Schedule P–6.

I. Removing the title and reporting instructions of Schedule P–5.1 (a), *Statement of Aircraft Operating Expenses for Small Air Carriers.*

J. Removing the title and reporting instructions of Schedule P–5(a), *Components of Flight Equipment Depreciation.*

K. Revising paragraphs (a) and (e), and removing and reserving paragraphs (c) and (d) of Schedule P–6 to read:

Schedule P–6—Maintenance, Passenger Service and General Services and Administration Subfunctions

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $10 million or more.

* * * * *

(c) (Reserved)

(d) (Reserved)

(e) Group I air carriers shall report the indicated data for all except function 5500 Pasenger Service.

* * * * *

L. Revising the reporting instructions of Schedule P–7 to read:

Schedule P–7—Aircraft and Traffic Servicing, Promotion and Sales, and General and Administrative Expense Functions

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) Route and charter air carriers shall file this schedule for each operating entity of the air carrier.

(c) Group II air carriers and Group III charter carriers shall report the indicated data for all except subfunction 6100 Aircraft Servicing.

(d) Group III air carriers shall report the indicated data for subfunction 6100 Aircraft Servicing and function 6800 General and Administrative and shall disregard the data indicated for functions 6400 Aircraft the Traffic Servicing and 6700 Promotion and Sales.

M. Revising the reporting instructions of Schedule P–8 to read:

Schedule P–8—Aircraft and Traffic Servicing, and Promotion and Sales Expense Subfunctions

(a) This schedule shall be filed by each Group III air carrier only.

(b) Route and charter air carriers shall file this schedule for each operating entity of the air carrier.

(c) The sum of the totals reported in this schedule for subfunctions 6200 Traffic Servicing and 6300 Servicing Administration, together with 6100 Aircraft Servicing in Schedule P–7 shall agree with the corresponding amount reported for function 6400 Aircraft and Traffic Servicing in Schedule P–1.2. The sum of the totals reported in subfunctions 6500 Reservations and Sales and 6600 Advertising and Publicity shall agree with the corresponding amount reported for function 6700 Promotion and Sales in Schedule P–1.2.

N. Removing the title of Schedule P–9.1, *Distribution of Ground Servicing Expenses by Geographic Location—Group I Air Carriers.*

O. Revising paragraph (a) of the reporting instructions of Schedule P–12(a) to read:

Schedule P–12(a)—Fuel Consumption by Type of Service and Entity

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that thave annual operating revenues of $10 million or more.

* * * * *

30. Section 25, *Traffic nd Capacity Elements,* would be amended by:

A. Revising paragraph (b) of the general instructions to Section 25 to read:

* * * * *

(b) Schedules T–1, T–2, and T–3 shall be in a form prescribed by the Board or in the form of approved machine listings. The same information reported in Schedule T–1 shall also be submitted on magentic tape or punched cards at the time the hardcopy schedules are submitted; however, those air carriers not having access to automatic data processing equipment shall submit only hardcopy reports to the Board.

B. Revising paragraph (d) of the reporting instructions for Schedules T–1(a), T–1(b) and T–1(c) to read:

Schedule T–1(a)—Traffic and Capacity Statistics by Class of Service

Schedule T–1(b)—Traffic and Capacity Statistics by Class of Service-Scheduled Services

Schedule T–1(c)—Traffic and Capacity Statistics by Class of Service-Nonscheduled Services

* * * * *

(d) A description of each item shall be given in the left margin, and separate columns shall be used to present the codes and data as applicable for each classification of service prescribed in section 19–4, namely, Scheduled Cargo Service, Nonscheduled Civilian Passenger-Cargo Service, Nonscheduled Military Passenger-Cargo Service, Nonscheduled Civilian Cargo Service, Nonscheduled Military Cargo Service and All Services. In addition, columns are provided for total scheduled and total nonscheduled services. Nonscheduled Military Passenger-Cargo Service and Nonscheduled Military Cargo Service shall be reported by aircraft type. Each aircraft type reported shall be identified at the head of each column in the space provided. "Aircraft Type" refers to aircraft models such as B–707–100, B–707–200, DC–10–40, etc. Aircraft Type designations are prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material,* which is available from the Board's Information Management Division. In the space provided for "Aircraft Code" carriers shall insert the four digit code which is prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material* for the reported aircraft type. The schedule shall include the following items:

Code	Elements
X110	Revenue passenger enplaned.
X140	Revenue passenger-miles.
X141	First class.
X142	Coach.
X160	Nonrevenue passenger-miles.
X240	Revenue ton-miles.
X241	Passenger.
X243	U.S. mail-priority.
X244	U.S. mail-nonpriority.
X245	Foreign mail.
X247	Freight.
X260	Nonrevenue ton-miles.
X280	avialable ton-miles.
X320	Available seat-miles.
X321	First class.
X322	Coach.
X410	Revenue aircraft miles flown.
X430	Revenue aircraft miles scheduled.
X431	Scheduled aircraft miles completed.
X510	Revenue aircraft departures performed.
X610	Revenue aircraft hours (airborne).
X620	Nonrevenue aircraft hours (airborne).
XXXX	Revenue aircraft hours (ramp-to-ramp).

C. Revising the title and paragraphs (a) and (d) of the reporting instructions of Schedules T–2(a) and T–2(b) to read:

Schedule T–2—Traffic, Capacity, Aircraft Operations and Miscellaneous Statistics by Type of Aircraft

(a) This schedule shall be filed quarterly by all carrier groups.

* * * * *

(d) A description of each item and the identifying code shall be given in the left margin, and separate columns shall be used for the data applicable to each type of aircraft as identified for reporting purposes in the *Manual of ADP Instructions, Outputs, Codes and Related Material*, which is available from the Board's Information Management Division. In the space provided for "Aircraft Code" carriers shall insert the four digit code which is prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material* for the reported aircraft type. Aircraft of the same basic structure, but different cabin design shall be classified accordingly as passenger or cargo aircraft types. the schedule shall include the following items:

SCHEDULED SERVICES

Code	Elements
	Revenue Passenger-Miles (000)
A140, E141	First Class and Mixed First Class Passenger-Cargo.
C140, E142	Coach and Mixed Coach Passenger-Cargo.
G140	Cargo.
K140	Total.
	Available Seat-Miles (000)
A320, E321	First Class and Mixed First Class Passenger-Cargo.
C320, E322	Coach and Mixed Coach Passenger-Cargo.
G320	Cargo.
K320	Total.
K240	Revenue Ton-Miles.
K280	Available Ton-Miles.
	Revenue Aircraft Miles Flown
A, C, E410	Passenger-Cargo.
G410	Cargo.
K410	Total.

ALL SERVICES

Z140	Revenue Passenger-Miles (000).
Z320	Available Seat-Miles (000).
Z240	Revenue Ton-Miles.
Z280	Available Ton-Miles.
Z410	Revenue Aircraft Miles Flown.

AIRCRAFT HOURS FLOWN

Z810	Revenue Aircraft Hours (airborne).
Z820	Nonrevenue Aircraft Hours (airborne).
Z850	Total Aircraft Hours (airborne).

MISCELLANEOUS OPERATING FACTORS

Z810	Aircraft Days Assigned to Service-Carrier's Equipment.
Z820	Aircraft Days Assigned to Service-Carrier's Routes.
Z420	Nonrevenue Aircraft Miles Flown.

SCHEDULED SERVICES—Continued

Code	Elements
Z830	Carrier's Interchange Equipment-Hours on Others (airborne).
Z630	Aircraft Hours (ramp-to-ramp).
Z921	Aircraft Fuels Issued (gallons).
Z922	Aircraft Oils Issued (gallons).

D. Revising the titles of Schedules T–3(a) and T–3(b), adding a new paragraph (e) to and revising paragraph (d) of the reporting instructions of Schedules T–3(a), T–3(b) and T–3(c) to read:

Schedule T–3(a)—Airport Activity Statistics-Scheduled Revenue Service

Schedule T–3(b)—Airport Activity Statistics-Scheduled Revenue Service

Schedule T–3(c)—Airport Activity Statistics-Scheduled Revenue Service

* * * * *

(d) Data shall be reported and listed in alphabetical sequence for each airport at which a carrier has conducted either scheduled service or charter operations during the report period. However, data applicable to international airports that are served only on a charter basis may be grouped and reported in total following the listing of individual airports. The schedule shall include the following items:

Item	Scheduled service	Nonscheduled service
Airport code		
Revenue aircraft departures scheduled.	K520	
Scheduled revenue departures completed.	K521	
Revenue aircraft departures performed total by aircraft type.	K510	V510
Revenue passengers enplaned	K110	V110
Revenue cargo tons enplaned:		
U.S. mail-priority	K213	V213
U.S. mail-nonpriority	K214	V214
Foreign mail	K215	V215
Freight	K217	V217

(e) Where data are required to be reported by aircraft type, separate columns shall be used for the data applicable to each type of aircraft as identified for reporting purposes in the *Manual of ADP Instructions, Outputs, Codes and Related Material*, which is available from the Board's Information Management Division. For each reported aircraft type, carriers shall also insert at the head of each column the four digit "Aircraft Code" which is prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material* for the reported aircraft type.

E. Revising paragraph (a) of the reporting instructions of Schedule T–9 to read:

Schedule T–9—Nonstop Market Report

(a) This schedule shall be filed monthly by all Group I and Group II air carriers providing scheduled service and may be used, with the approval of the Board's Comptroller, by new entrants and others without Automatic Data Processing capability that would otherwise by required to comply with the requirements of Section 19–3.

* * * * *

31. Section 26, *General Corporate Elements*, would be amended by revising paragraph (a) of the reporting instructions of Schedule G–41 to read:

Schedule G–41—Persons Holding More than 5 Per Centum of Respondents Capital Stock or Capital

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $10 million or more.

* * * * *

32. CAB Form 41 Report would be amended as shown in Exhibits C through V attached.[1]

Authority: Sections 204, 401, 407, 416, 417, 901, 902, 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 771, 783, 784, 788, 76 Stat. 145; 49 U.S.C. 1324, 1371, 1377, 1386, 1387, 1471, 1472, and 1482.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–11467 Filed 4–30–84; 8:45 am]

BILLING CODE 6320–01–M

[1] Exhibits C through V are filed as part of the original document.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 812 3195]

California-Texas Oil Co., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Glendale, Ca. company and its corporate president, among other things, to cease making mileage or emission improvement claims for the "AWECO Mileage Extender" or any gasoline additive or automotive device, unless the claims can be substantiated by competent and reliable scientific tests. The company would also be required to

prominently disclose any material limitations or inferences that can be drawn from test results that substantiate fuel economy improvement or emission reduction claims. The order would further bar the company from making any fuel economy or automotive emissions performance claims using the phrase "up to" or words of similar import, unless a substantial number of consumers, under normal driving circumstances, can achieve the maximum level of performance claimed.

DATE: Comments must be received on or before July 2, 1984.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul R. Roark, 7R, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024, (213) 209–7575.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Automobile retrofit devices, Trade practices.

Before the Federal Trade Commission

[File No. 812 3195] Agreement Containing Consent Order to Cease and Desist

In the Matter of California-Texas Oil Company, a California Corporation, and Eileen M. Robertson, individually and as an officer and director of California-Texas Oil Company.

The Federal Trade Commission, having initiated an investigation of certain acts and practices of California-Texas Oil Company, a California corporation ("Cal-Tex"), Eileen M. Robertson ("Robertson"), individually and as an officer and a director of Cal-Tex, hereinafter sometimes referred to as "proposed respondents," and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Cal-Tex, by its authorized officers, and Robertson, individually and as an officer and director of Cal-Tex, and counsel for the Federal Trade Commission that:

1. Proposed respondent Cal-Tex is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 1173 North Westmoreland Avenue, Los Angeles, California 90029.

Proposed respondent Robertson is Chairman of the Board and President of Cal-Tex. She forumlates, directs and controls the policies, acts and practices of said Cal-Tex. Her address is the same as that of Cal-Tex.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceedings and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order of the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent California-Texas Oil Company, a corporation, its successors and assigns, and its officers, and respondent Eileen M. Robertson, individually and as an officer and director of the corporate respondent, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of the gas additive known as AWECO Mileage Extender ("AWECO"), any other fuel additive, any engine oil additive, or any automobile retrofit device, as "automobile retrofit device" is defined in section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. Representing, directly or by implication, that any such additive or device will or may result in fuel economy improvement when installed in

an automobile, truck, recreational vehicle or other motor vehicle unless:

1. Such representation is true;

2. At the time of making such representation, respondents possess and rely upon, as substantiation for the representation, written results of competent and reliable scientific testing that isolate the effects of the additive or device. Respondents may use such tests as the then current urban dynamometer driving schedule 40 CFR Part 86, Appendix I) or the then current highway fuel economy driving schedule (40 CFR Part 600, Appendix I) established by the Environmental Protection Agency or other tests of an equivalent competency and reliability; and

3. Respondents, when using the results of any test(s) required by this Part, clearly and prominently disclose with such representation any material limitation upon the test results or inferences that can be drawn from the results.

b. Representing, directly or by implication, that any such additive or device will or may result in a reduction in automotive emissions from the operation of an automoblie, truck, recreational vehicle or other motor vehicle when installed in such vehicle unless:

1. Such representation is true;

2. At the time of making such representation, respondents possess and rely upon written results of competent and reliable scientific testing, as substantiation for the representation, done by a laboratory using tests such as, or equivalent in competency and reliability to, a chassis dynamometer test performed according to the 1975 Federal Test Procedure; and

3. Respondents, when using the results of any test(s) required by this Part, clearly and prominently disclose with such representation any material limitation upon the test results or inferences that can be drawn from the results.

c. Making any fuel economy or automotive emissions performance claim which uses the phrase "up to" or words of similar import, unless the maximum level of performance claimed can be achieved by an appreciable number of consumers under circumstances normally and expectably encountered by consumers.

d. Representing, directly or by implication, that any performance claim about any such additive or device is based upon any competent and reliable test(s) or survey(s), unless such representation is true.

e. Misrepresenting, in any manner, the purpose, content, or conclusion of any test or survey pertaining to any such additive or device.

For the purposes of Part I, a competent and reliable test means one in which persons qualified to do so conduct the test and evaluate its results in an objective manner using procedures that ensure accurate and reliable results.

II

It is further ordered that respondents, in connection with the advertising, labeling, offering for sale, sale or distribution of any product of service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain accurately the following records, which shall be available for inspection by Commission staff upon request: copies of and dissemination schedules for all advertisements and labels, other sales promotional materials, and post-purchase materials disseminated by respondents directly or through any business entity; copies of all documents generated by the requirements of Parts III and IV of this order. Such documentation shall be retained by respondents for a period of three (3) years from the last date any such advertising or material is disseminated, except that documentation relating to Parts III and IV of the order shall be retained by respondents for a period of three (3) years from the last date a copy of this order is disseminated.

III

It is further ordered that resondents do forthwith distribute a copy of this order to all operating divisions of the corporate respondent, and to all present or future personnel, agents or representatives of respondents having sales, advertising, or policy responsibilities with respect to the subject matter of this order, and that respondents secure from each such person a signed statement acknowledging receipt of said order.

IV

It is further ordered that respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

V

It is further ordered that the individual respondent named herein promptly notify the Commission of the discontinuance of her present business or employment. In addition, for a period of 5 years from the date of service of this order, the individual respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of the individual respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VI

It is further ordered that respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from California-Texas Oil Company and Eileen M. Robertson.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint charges that California-Texas Oil Company and Eileen M. Robertson made certain automobile mileage improvement claims about the use of their gasoline additive product, "AWECO," that were false and unsubtantiated. The Complaint also charges that the respondents falsely represented that such claims were based on competent and reliable evidence.

The Order prohibits the respondents from making mileage or emissions improvement claims about any gasoline additive or automotive device unless the claim is true and backed up by competent and reliable scientific testing. If there is any material limitation on the applicability of the tests those limitations must also be disclosed.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to

constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 84-11680 Filed 4-30-84; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6526; IC-13903; S7-14-84]

Amendments to the Offering Exemption Under Regulation E of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing for comment amendments to Regulation E, an exemption from registration under the Securities Act of 1933 for small offerings by small business investment companies registered under the Ivestment Company Act of 1940, and an amendment to Regulation A, an exemption from registration under the Securities Act of 1933 for small offerings by certain other issuers. Specifically, the Commission is proposing to: (i) Increase the aggregate offering price of all securities of an issuer that may be sold within a twelve month period under Regulation E from $500,000 to $2,500,000; (ii) increase the aggregate offering price of all securities of an issuer that may be sold under Regulation E without the use of an offering circular from $50,000 to $100,000; (iii) permit the use of a preliminary offering circular in certain underwritten public offerings under Regulation E between the date of filing the notification and the date on which the company's securities may be sold; (iv) permit certain investment companies which elect to be treated as business development companies under the Investment Company Act of 1940 to use Regulation E, and preclude business development companies from using Regulation A; and (v) revise Schedule A of Regulation E for small business investment companies and add Schedule B to that regulation for use by business development companies. The objective of the proposed amendments is to increase the ability of small business investment companies and business development companies to raise capital utilizing the offering exemption under Regulation E by expanding the companies eligible to use Regulation E and by facilitating the process for making small offerings under that regulation.

DATE: Comments on the proposed amendments should be received on or before June 25, 1984.

ADDRESS: Three copies of all comments should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7-14-84. All comments received will be available for public inspection on copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel, (202) 272-2115, or Stephen C. Beach, Esq., (202) 272-3040, Office of Disclosure Legal Services, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment proposed amendments to Regulation E [17 CFR 230.601-230.610a] and Regulation A [17 CFR 230.251-230.264] under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a *et seq.*]. The amendments would (i) increase the aggregate offering price of all securities of an issuer that may be sold within a twelve month period under Regulation E from $500,000 to $2,500,000; (ii) increase the aggregate offering price of all securities of an issuer that may be sold under Regulation E without the use of an offering circular from $50,000 to $100,000; (iii) permit the use of a preliminary offering circular in underwritten public offerings between the date of filing the notification under Regulation E and the date on which the company's securities may be sold when the offering will be sold by one or more underwriters which are broker-dealers registered under section 15 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78(o)]; (iv) permit certain investment companies which elect to be treated as business development companies under the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-1 *et seq.*] to use Regulation E, and preclude business development companies from using Regulation A; and (v) revise Schedule A of Regulation E for small business investment companies and add Schedule B to that regulation for business development companies.

Background

Small Business Investment Companies

In 1958, Congress enacted the Small Business Investment Act ("SBIA")[1] in order to improve and stimulate the flow of private equity capital and long-term loan funds needed by small businesses for financing, expansion and growth.[2] At that time, Congress also amended the Securities Act by adding section 3(c) [15 U.S.C. 77c(c)] to enable the Commission to exempt from the registration provisions of the Securities Act, completely or conditionally, securities issued by small business investment companies ("SBICs").[3] Pursuant to section 3(c), the Commission adopted Regulation E [17 CFR 230.601-230.610a] under the Securities Act.[4]

Regulation E exempts from registration under the Securities Act securities issued by an SBIC [5] that is

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[1] 15 U.S.C. 661 *et seq.*

[2] Section 102 of the Small Business Investment Act [15 U.S.C. 661] (1958).

[3] Section 3(c) provides that the Commission "may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

The legislative history of section 3(c) indicates that the debate centered on the question of whether to exempt securities issued by SBICs from registration under the Securities Act automatically or to give the Commission discretionary power to exempt SBICs. S. 3643 and H.R. 12057, introduced on April 21, 1958, would have automatically exempted securities issued by SBICs from registration under the Securities Act by adding a section 3(a)(12). The bill that was eventually enacted, S. 3651, was introduced on the same day and contained the language currently in section 3(c). The Commission favored having discretionary power to exempt SBICs. *Financing Small Business: Hearings on S. 3643 and S. 3651 before the Subcomm. on Small Business of the Senate Comm. on Banking and Currency*, 85th Cong., 2d Sess. 234-36 (1958). In its report, the Senate Committee on Banking and Currency stated: "The Committee is convinced that it would not be wise to exempt such investment companies outright from the securities laws." S. Rep. No. 1652, 85th Cong., 2d Sess. 13 (1958).

[4] Securities Act Release No. 4005 (December 17, 1958) [23 FR 10463 (December 30, 1958)].

[5] As used in Regulation E, the term "small business investment company" means "any company which is licensed as a small business investment company under the Small Business Investment Act of 1958 or which has received the preliminary approval of the Small Business Administration and has been notified by the Administration that it may submit a license application." [17 CFR 230.602(a)].

registered under the 1940 Act, provided certain conditions are met.[6] Regulation E requires, among other things, that the SBIC file with the Commission a notification of its initial offering and, in most cases, an offering circular.[7]

When Regulation E was adopted in 1958, the maximum aggregate offering price of securities that could be offered under the regulation within a twelve month period was $300,000. In 1971, the Commission increased the aggregate offering price ceiling to its current level of $500,000.[8]

Regulation E was patterned after Regulation A under the Securities Act [17 CFR 230.251–230.264],[9] as it was initially adopted pursuant to section 3(b) of the Securities Act [15 U.S.C. 77c(b)].[10] Regulation A provides a conditional exemption from registration under the Securities Act for small offerings of securities other than those of registered investment companies and certain fractional interests in mineral rights. In September, 1978, the Commission amended Regulation A to (i) increase the aggregate offering price of all securities of an issuer that could be sold within a twelve month period pursuant to that regulation or any other exemption under section 3(b) of the Securities Act from $500,000 to $1,500,000, and (ii) increase the aggregate offering price of all securities of an issuer that could be sold under Regulation A without the use of an offering circular from $50,000 to $100,000.[11] In June, 1979, the Commission further amended Regulation A to permit the use of a preliminary offering circular in underwritten public offerings under the regulation between the date of filing the notification and the date on which the securities may be sold when the offering will be sold by one or more underwriters which are broker-dealers registered under Section 15 of the Exchange Act.[12] In September, 1981, the Commission amended Regulation A to provide for a comprehensive revision of the Regulation A disclosure provisions.[13]

Business Development Companies

In October, 1980, the Small Business Investment Incentive Act of 1980 ("1980 Act") was signed into law.[14] The purpose of the 1980 Act is to stimulate the flow of capital to small, growing or financially troubled business enterprises.[15] To achieve this goal, the 1980 Act provides that certain closed-end investment companies electing to be treated as "business development companies" ("BDCs") under the 1940 Act are exempt from certain specific provisions of the 1940 Act and subject instead to a pattern of regulation specifically designed for BDCs.

A BDC is defined as a closed-end management investment company [16] that is operated for the purpose of making certain types of investments [17] and that makes available significant managerial assistance [18] to the companies in which it invests. Generally, an investment company that elects to be treated as a BDC,[19] or intends within 90 days to so elect,[20] is exempt from certain provisions of sections 1 through 53 of the 1940 Act [15 U.S.C. 80a–1 to 80a–52], [21] but is subject to the provisions of sections 55 through 65 of the 1940 Act [15 U.S.C. 80a–54 to 80a–64]. The 1980 Act, however, did not provide any exemptions BDCs from registration under the Securities Act.[22]

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[6] *See* Rule 602(a) under the Securities Act which provides that securities issued by an SBIC "which is registered under the Investment Company Act of 1940" may be exempt from registration under the Securities Act, subject to the terms and conditions of Regulation E. SBICs register under the 1940 Act on Form N–5, an integrated form enabling SBICs also to register their securities under the Securities Act. While Regulation E technically could be used by SBICs for initial public offerings of their securities, as a practical matter, SBICs probably would use Form N–5 for their initial public offerings. Regulation E most likely would be used by SBICs for subsequent public offerings meeting the conditions of that regulation.

[7] If the offering is less than a stated amount, the SBIC is not required to file an offering circular with the Commission or to furnish one to investors, although the information required by Schedule A must be filed with the Commission. In addition, Regulation E requires the filing of certain sales materials used in connection with an exempt offering and the filing of semi-annual and final reports.

[8] Securities Act Release No. 5134 (Mar. 26, 1971) [36 FR 7050 (April 14, 1971)].

[9] Securities Act Release No. 4005 (Dec. 17, 1958) [23 FR 10483 (Dec. 30, 1958)].

[10] Section 3(b) provides: The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed in this section, add any class of securities to the securities exempted as provided in this section, if it finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering; but no issue of securities shall be exempted under this subsection where the aggregate amount at which such issue is offered to the public exceeds $5,000,000.

Regulation A was initially adopted in Securities Act Release No. 3663 (July 23, 1956) [21 FR 5739 (Aug. 1, 1956)].

[11] Securities Act Release No. 5977 (Sept. 11, 1978) [43 FR 41383 (Sept. 18, 1978)].

[12] Securities Act Release No. 6075 (June 1, 1979) [44 FR 33362 (June 8, 1979)].

[13] Securities Act Release No. 6340 (August 7, 1981) [46 FR 41786 (August 18, 1981)]. Prior to the amendment, Regulation A required the filing of a notification on Form 1–A, and exhibits to that form which included, among other things, an offering circular prepared in accordance with Schedule I of Form 1–A. As amended, the notification and offering circular was replaced with an "offering statement" consisting of a notification, offering circular and statement of additional information.

[14] Pub. L. 96–477 (Oct. 21, 1980).

[15] The legislative history of the bill in discussing the need for such legislation states that:

The Committee [on Interstate and Foreign Commerce] is well aware of the slowing of the flow of capital to American enterprise, particularly to smaller, growing businesses, that has occurred in recent years. The importance of these businesses to the American economic system in terms of innovation, productivity, increased competition and the jobs they create is, of course, critical. Hence, the need to reverse this downward trend is of compelling public concern. Without doubt, the slowdown that has occurred is the product of many economic forces quite apart from the costs of securities regulation—taxes and inflation principal among them—and the Congress has been separately addressing all these factors in a wide variety of ways. But no undue cost should be shielded from scrutiny. As but one means of dealing with the more general problem, this Bill seeks specifically to reduce some of the costs of government regulation imposed on the capital-raising process, to the extent that it can be done without sacrificing necessary investor protection.

H.R. Rep. No. 1341, 96th Cong., 2d Sess. 20 (1980). *See also* S. Rep. No. 958, 96th Cong., 2d Sess. 4 (1980).

[16] Closed-end investment companies are management companies that do not offer for sale or have outstanding any redeemable security. *See* section 5(a)(2) of the 1940 Act [15 U.S.C. 80a–5(a)(2)].

[17] Section 55(a) of the 1940 Act [15 U.S.C. 80a–54(a)], in part, describes the securities of companies in which a BDC can invest. These securities generally must comprise at least 70 percent of the value of the BDC's investment assets, measured at the time of investment. The companies in which a BDC can invest to meet the 70 percent test are primarily "eligible portfolio companies" as defined in section 2(a)(46) of the 1940 Act [15 U.S.C. 80a–2(a)(46)].

[18] Section 2(a)(47) of the 1940 Act [15 U.S.C. 80a–2(a)(47)].

[19] A company may elect to be treated as a BDC by filing with the Commission a notification of election pursuant to section 54(a) of the 1940 Act [15 U.S.C. 80a–53(a)].

[20] A privately-held company that would be excluded from the definition of investment company except that it presently proposes to make a public offering of its securities may notify the Commission, pursuant to section 6(f)(2) [15 U.S.C. 80a–6(f)(2)], that it intends, within 90 days to elect to be treated as a BDC.

[21] Except to the extent provided in sections 59 through 65 of the 1940 Act [15 U.S.C. 80a–58 to 80a–64].

[22] Commissioner Stephen J. Friedman, in response to a question posed by Senator Richard G. Lugar during the Senate subcommittee hearings on the 1980 Act, states that then existing Rule 242 [17 CFR 230.242] did not include investment companies and certain other industries because they presented "specialized disclosure problems which should be addressed separately. It was these disclosure problems which caused the Commission to exclude these types of issuers from the experimental rules until more experience could be gained." *Federal Securities Laws and Small Business Legislation: Hearings on S. 1533, S. 1940 and S. 2699 before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs*, 96th Cong., 2d Sess. 560 (1980) [hereinafter cited as Hearings]. (Rule 242 provided an exemption from registration under the Securities Act for small offerings to

Continued

Discussion

Congress created SBICs and BDCs to stimulate the flow of capital to small and growing businesses. The Commission is proposeing amendments to Regulation E that will, if adopted, increase the ability of SBICs and BDCs to obtain needed equity capital by (1) raising the ceilings for offerings under the regulation, (2) making the disclosure requirements clearer and easier to meet, (3) permitting BDCs to use the regulations, and (4) permitting the use of a preliminary offering circular for underwritten offerings under the regulation.

Aggregate Offering Price Limits

The proposed amendments would increase the aggregate offering price of all securities of an issuer that may be offered under Regulation E within a twelve month period from $500,000 to $2,500,000. In addition, the aggregate offering price of all securities of an issuer for which an offering circular would not be required under Regulation E would be increased from $50,000 to $100,000.

As previously discussed, the SBIA and the 1980 Act were enacted to stimulate capital formation for SBICs and BDCs and the small companies in which they invest. Regulation E, which provides a conditional exemption from registration under the Securities Act, is a natural vehicle for accomplishing the objective of these legislative programs. However, Regulation E has been infrequently used in recent years, due in large part to the low offering ceiling currently in place. Raising the offering ceiling to $2,500,000 would facilitate capital-raising by SBICs and BDCs consistent with the purposes of the SBIA and the 1980 Act, while maintaining the investor protections traditionally afforded smaller offerings.

Preliminary Offering Circular

The proposed amendments would parallel amendments to Regulation A that permit the use of a preliminary offering circular in an underwritten offering between the date of filing the notification and the date securities may be sold. Currently, under Rule 604 [17 CFR 230.604], an offering under Regulation E may not be commenced until at least ten business days after the original notification is filed with the Commission, unless acceleration is requested by the issuer and granted by the Commssion's staff. Rule 605(a) [17 CFR 230.605(a)] currently requires delivery of an offering circular to any person to whom a written offer of securities is made under the regulation either concurrently with or prior to that written offer. This requirement effectively precludes the distribution of a preliminary offering circular prior to the commencement of a Regulation E offering.

As previously discussed, in June, 1979, the Commission amended Regulation A to permit the use of a preliminary offering circular for underwritten public offerings under that regulation.[23] In the release proposing for comment that amendment to Regulation A, the Commission noted that offerings under Regulation A were adversely affected by the inability of an underwriter to circulate a preliminary offering circular prior to the sale date, thereby increasing the risk for underwriters and the costs to issuers making Regulation A offerings.[24] In adopting the rule permitting the use of a preliminary offering circular for a Regulation A offering, the Commission determined that the participation of an underwriter helps to assure that the disclosures in the preliminary offering circular will be of "reasonably good quality". The Commission believes that the rationale for permitting use of a preliminary offering circular in underwritten Regulation A offerings and the safeguards afforded by the involvement of an underwriter are equally applicable to offerings under Regulation E.

The amendments proposed today would provide that a preliminary offering circular meeting the requirements of paragraph (f) of Rule 605 may be distributed as soon as the notification and the preliminary offering circular has been filed with the Commission as required by Rule 605.[25] After distribution of the preliminary offering circular, oral offers of the security based on the preliminary offering circular can be made;[26] however, a sale of the security is not permitted.[27] If the preliminary offering circular is inaccurate or inadequate in any material respect, a revised preliminary offering circular or the final offering circular must be furnished to all persons to whom the securities are to be sold 48 hours prior to the mailing of any confirmation of the sale or sent to such persons under circumstances that it would normally be received by them 48 hours prior to their receipt of confirmation of the sale.[28] If the preliminary offering circular is not inaccurate or inadequate, the final offering circular, as provided in Rule 605(f)(4), must be sent to each purchaser of the security either before sending a confirmation of the sale or when the confirmation is sent.

Schedule A: Small Business Investment Companies

The Commission is proposing to revise Schedule A of Regulation E for SBICs to make it clearer and easier to use. Schedule A has not been changed significantly since 1958. Currently, Schedule A requires information relating to the offering, the business and investment policies of the issuer, the issuer's management and certain unaudited financial information concerning the issuer. The proposed revision of Schedule A would not materially change these basic requirements, but would simply update the Schedule to emphasize disclosure of information that is most important to the average investor.

As proposed, Schedule A would provide more precise guidance to issuers in preparing a Regulation E offering circular. The format of the proposed Schedule A would be condensed to six items,[29] but would provide expanded descriptions and explanations of the information required. For example, the revised Schedule would specify the exact information and tables required on the cover page of the offering circular. In addition, the revised Schedule would focus on disclosure about the significant and active investment objectives and policies of the issuer. Recitals of negative or dormant investment policies and practices would not be required. Further, the present

accredited persons or a limited number of purchasers. Rule 242 was the predecessor of Rule 505 of Regulation D [17 CFR 230.505] which was adopted in Securities Act Release No. 6389 (Mar. 8, 1982) [47 FR 11251 (Mar. 16, 1982)].)

[23] Securities Act Release No. 6075 (June 1, 1979) [44 FR 33362 (June 8, 1979)].

[24] For a discussion of the possible reasons for this adverse effect *see* Securities Act Release No. 5997 (Nov. 18, 1978) [43 FR 55254 (Nov. 27, 1978)].

[25] As proposed, Rule 605(f)(1) requires that the preliminary offering circular contain substantially all of the information required by Schedule A or Schedule B, except for the ommssion of certain specified information relating to the offering price and underwriters' compensation.

[26] The use of sales literature continues to be prohibited by paragraph (a)(1) of Rule 605 until the final offering circular is delivered in accordance with paragraph (a)(2), or (f)(4) of Rule 605.

[27] The distribution of the preliminary offering circular would satisfy the provisions of Rule 605(a)(1); however, paragraphs (a) and (c) of Rule 604 as proposed prohibit the sale of the security during the 10-day waiting period provided in that rule, unless the Commission, upon written request, authorizes the offer or sale of the securities prior to expiration of the 10-day waiting period.

[28] See proposed Rule 605(b).

[29] Schedule B for BDC's would contain seven disclosure items.

disclosures under Schedule A would be slightly expanded to require certain additional information about the business experience of directors, officers and certain shareholders of the issuer who are significantly involved in the investment decisions of the issuer, or who are advising, directing or controlling portfolio companies of the issuer. In addition, information on the investment adviser of the issuer would be required if applicable. The proposed amendments would require a profit and loss or income statement for the two fiscal years preceding the date of filing (and any subsequent period up to the date of the balance sheet) instead of the current requirement of including the profit and loss or income statement for the last three fiscal years (and any subsequent period up to the date of the balance sheet). The amendments also would require that the financial statements for the issuer's latest year be certified in accordance with Regulation S-X if the issuer has filed or is required to file certified financial statements with the Commission for that fiscal year.

These revisions will make the Schedule simpler and easier to use and will lead to clearer and more readable offering circulars, without increasing the burdens on issuers using the regulation.

Schedule B: Business Development Companies

Registered investment companies are precluded from using Regulation A, which was specifically designed for operating companies. Since BDCs are more similar in structure and operation to registered investment companies than to operating companies, the Commission believes that these companies also should not be permitted to use Regulation A. Consequently, pursuant to its authority under section 3(b) of the Securities Act, the Commission is proposing to allow BDCs to use Regulation E.[30] To this end, the Commission is proposing to add Schedule B to Regulation E for use by BDCs.[31] Schedule B will be the format for the offering circular used by BDCs, as required by rule 605 of Regulation E, and is very similar to Schedule A for SBICs, except that certain items are directed to the special characteristics of BDCs.[32]

The Commission is also making technical modifications to Form 1-E so that BDCs can use this for the notification required by Rule 604 of Regulation E. In addition, the Commission is proposing an amendment to Regulation A to preclude BDCs from using that regulation.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendments

The Commission is publishing for comment amendments to Part 230 and Part 239 of Chapter II, title 17 of the Code of Federal Regulations as follows:

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

1. Paragraph (a) of § 230.602 is revised to read as follows:

§ 230.602 Securities exempted.

(a) Except as hereinafter provided in this rule, securities issued by any small business investment company which is registered under the Investment Company Act of 1940, or any closed-end investment company that has elected to be regulated as a business development company under the Investment Company Act of 1940 or has notified the Commission that it intends to elect to be regulated as a business development company pursuant to section 54 of the Investment Company Act of 1940, will be exempt from registration under the Securities Act of 1933, subject to the terms and conditions of §§ 230.601 to § 230.610a. As used in this paragraph, the term "small business investment company" means any company which is licensed as a small business investment company under the Small Business Investment Act of 1958 or which has received the preliminary approval of the Small Business Administration and has been notified by the Administration that it may submit a license application. As used in this paragraph, the term "business development community" means any closed-end investment company which meets the definitional requirements of section 2(a)(48) (A) and (B) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(48)].

* * * * *

2. Introductory text to paragraph (a) of § 230.603 is revised to read as follows:

§ 230.603 Amount of securities exempted.

(a) The aggregate offering price of all of the following securities of the issuer shall not exceed $2,500,000.

* * * * *

3. Paragraphs (a) and (c) of § 230.604 are revised as follows:

§ 230.604 Filing of notification on Form 1-E.

(a) At least 10 days (Saturdays, Sundays and holidays excluded) prior to the date on which the initial offering or sale of any securities is to be made under §§ 230.601 to § 230.610a, there shall be filed with the Commission four copies of a notification on Form 1-E. The Commission may, however, in its discretion, authorize the commencement of the offering or sale prior to the expiration of such 10-day period upon a written request for such authorization. At the time of filing the notification, the applicant shall pay to the Commission a fee of $100, no part of which shall be refunded.

* * * * *

(c) Any amendment to the notification shall be signed in the same manner as the original notification. Four copies of such amendment shall be filed with the Commission at least 10 days prior to any offering or sale of the securities subsequent to the filing of such amendment, or such shorter period as the Commission, in its discretion, may authorize upon a written request for such authorization.

* * * * *

4. Paragraphs (a) introductory text and (a)(1) are revised and paragraph (f) is added to § 230.605 as follows:

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[30] While BDCs are generally exempted from sections 1 through 53 of the 1940 Act, they are subject to many of its substantive provisions. *See* sections 59 through 65 of the 1940 Act [15 U.S.C. 80a-58 to 80a-64]. *See also* Investment Company Act Release No. 12274 (Mar. 5, 1982) [47 FR 10518 (Mar. 11, 1982)]; *Hearings, supra* note 22 (testimony of Commissioner Stephen J. Friedman).

[31] As proposed under Rule 602(a) of Regulation E, in order to use Regulation E a closed-end investment company must either elect to be treated as a BDC under the 1940 Act by filing a notification of election on Form N-54A or intend to elect to be treated as a BDC by filing a notification of that intention on Form N-6F. In addition, in order for such an investment company to be treated as a BDC under the 1940 Act, the company must have a class of equity securities registered under Section 12 of the Exchange Act or have filed a registration statement pursuant to that section. BDCs may register their securities under Section 12 on Form 8-A (if the company is already filing reports pursuant to Section 13 or 15(d) of the Exchange Act) or on Form 10. If a BDC is making a public offering on Form N-2 under the Securities Act, it may register its securities under the Exchange Act on Form 8-A. If a BDC is making a public offering under Regulation E and has not registered other securities under the Exchange Act, it may file the notification and offering circular with the Commission under Regulation E, and may register its securities under the Exchange Act on Form 10.

[32] Specifically, Item 2 of proposed Schedule B would require, among other things, that the issuer disclose (1) its investment policy with respect to the portion of its portfolio that may be invested in "nonqualifying assets," (2) its policy with respect to rendering significant managerial assistance to eligible portfolio companies and (3) its policy with respect to investing as part of a group. In addition, Item 5 of proposed Schedule B would require a tabular presentation of certain information with respect to the portfolio companies of the issuer.

§ 230.605 Filing and use of the offering circular.

(a) Except as provided in paragraphs (b) or (f) of this rule and in § 230.606:

(1) No written offer of securities of any issuer shall be made under §§ 230.601 to 230.610a unless an offering circular containing the information specified in Schedule A or Schedule B, as appropriate, is concurrently given or has previously been given to the person to whom the offer is made, or has been sent to such person under such circumstances that it would normally have been received by him at or prior to the time of such written offer; and

* * * * *

(f) An offering circular filed pursuant to paragraph (e) may be distributed prior to the expiration of the 10-day waiting periods for offerings provided for in § 230.604(a) and (c) and paragraph (e) of this section and such distribution may be accompanied or followed by oral offers related thereto, provided the conditions in paragraphs (f)(1) through (f)(4) are met. For the purposes of this section, any offering circular distributed prior to the expiration of the ten day waiting period is called a Preliminary Offering Circular. Such Preliminary Offering Circular may be used to meet the requirements of paragraph (a)(2) of § 230.605, provided that if a Preliminary Offering Circular is inaccurate or inadequate in any material respect, a revised Preliminary Offering Circular or an offering circular of the type referred to in paragraph (f)(4) shall be furnished to all persons whom the securities are to be sold at least 48 hours prior to the mailing of any confirmation of sale to such persons, or shall be sent to such persons under such circumstances that it would normally be received by them 48 hours prior to their receipt of confirmation of the sale.

(1) Such Preliminary Offering Circular contains substantially the information required by this section to be included in an offering circular, or contains substantially that information except for the omission of information with respect to the offering price, underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, conversion rates, call prices, or other matters dependent upon the offering price.

(2) The outside front cover page of the Preliminary Offering Circular shall bear the caption "Preliminary Offering Circular," the date of its issuance, and the following statement which shall run along the left hand margin of the page and printed perpendicular to the text, in boldface type at least as large as that used generally in the body of such offering circular:

A notification pursuant to Regulation E relating to these securities has been filed with the Securities and Exchange Commission. Information contained in this Preliminary Offering Circular is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time an offering circular which is not designated as a Preliminary Offering Circular is delivered. This Preliminary Offering Circular shall not constitute an offer to sell or solicitation of an offer to buy nor shall there be any sales of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

(3) The Preliminary Offering Circular relates to a proposed public offering of securities that is to be sold by or through one or more underwriters which are broker-dealers registered under Section 15 of the Securities Exchange Act of 1934, each of which has furnished a signed Consent and Certification in the form prescribed as a condition to the use of such offered circular;

(4) An offering circular which contains all of the information specified in Schedule A or Schedule B (17 CFR 230.610a) and which is not designated as a Preliminary Offering Circular is furnished with or prior to delivery of the confirmation of sale to any person who has been furnished with a Preliminary Offering Circular pursuant to this paragraph.

5. The introductory paragraph and paragraph (a) of § 230.606 are revised to read as follows:

§ 230.606 Offering not in excess of $100,000.

No offering circular need be filled or used in connection with an offering of securities under §§ 230.601 to 230.610a if the aggregate offering price of all securities of the issuer offered or sold without the use of such an offering circular does not exceed $100,000 computed in accordance with § 230.603, provided the following conditions are met:

(a) There shall be filed as an exhibit to the notification four copies of a statement setting forth the information (other than financial statements) required by Schedule A or Schedule B to be set forth in an offering circular.

* * * * *

6. § 230.610a is revised.

§ 230.610a Schedule A—Contents of offering circular for small business investment companies; Schedule B—Contents of offering circular for business development companies.

Schedule A—Contents of Offering Circular for Small Business Investment Companies

General Instructions

1. The information in the offering circular should be organized to make it easier to understand the organization and operation of the company. The required information need not be in any particular order, except that Items 1 and 2 must be the first and second items in the offering circular.

2. The offering circular, including the cover page, may contain more information that is called for by this Schedule, provided that it is not incomplete, inaccurate, or misleading. Also, the additional information should not, by its nature, quantity, or manner of presentation, obscure or impede understanding of required information.

Item 1. Cover Page

The cover page of the offering circular shall include the following information:

(a) The name of the issuer;

(b) The mailing address of the issuer's principal executive offices including the zip code and the issuer's telephone number;

(c) The date of the offering circular;

(d) A list of the type and amount of securities offered (e.g., if the securities offered include redemption or conversion features, so state);

(e) The following statement in capital letters printed in boldface roman type at least as large as ten-point modern type and at least two points leaded:

"THESE SECURITIES ARE OFFERED PURSUANT TO AN EXEMPTION FROM REGISTRATION WITH THE SECURITIES AND EXCHANGE COMMISSION; HOWEVER, THE COMMISSION HAS NOT MADE AN INDEPENDENT DETERMINATION THAT THE SECURITIES BEING OFFERED ARE EXEMPT FROM REGISTRATION. THE SECURITIES AND EXCHANGE COMMISSION DOES NOT PASS UPON THE MERITS OF OR GIVE ITS APPROVAL TO ANY SECURITIES OFFERED OR THE TERMS OF THE OFFERING, NOR DOES IT PASS UPON THE ACCURACY OR COMPLETENESS OF ANY OFFERING CIRCULAR OR OTHER SELLING LITERATURE."

(f) The name of the underwriter or underwriters, if applicable;

(g) A cross-reference to the place in the offering circular discussing the material risks involved in purchasing the securities, printed in bold-face roman type at least as high as ten-point modern type and at least two points leaded;

(h) The approximate date when the proposed sale to the public will begin; and

(i) The information called for by the following table shall be given, in substantially the tabular form indicated, on the outside front cover page of the offering circular as to all securities being offered (estimate, if necessary):

	Offering Price to public	Underwriting discounts and commissions	Proceeds to issuer or other persons
Per share or other unit basis			
Total			

If the securities are to be offered on a best efforts basis, the cover page should set forth the termination date, if any, of the offering, any minimum required sale, and any arrangements to place the funds received in an escrow, trust, or similar arrangement. The following tabular presentation of the total maximum and minimum securities to be offered should be combined with the table required above:

	Offering Price to public	Underwriting discounts and commissions	Proceeds to issuer or other persons
Total Minimum			
Total Maximum			

Instructions

1. The term "commissions" shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which any underwriter is interested, made in connection with the sale of such security.

2. Only commissions paid by the issuer in cash are to be indicated in the table. Commissions paid by other persons or any form of noncash compensation shall be briefly identified in a note to the table with a cross-reference to a more complete description elsewhere in the offering circular.

3. If the securities are not to be offered for cash, state the basis upon which the offering is to be made.

4. (a) If it is impracticable to state the price to the public, briefly state the method by which the price is to be determined.

(b) Any "finder's fees" or similar payments must be disclosed in a note to the table with a reference to a more complete discussion in the offering circular.

(c) The amount of the expenses of the offering borne by the issuer, including underwriting expenses to be borne by the issuer, should be disclosed in a note to the table.

5. If any of the securities are to be offered for the account of any security holder, state the identity of each selling security holder, the amount owned by him, the amount offered for his account and the amount to be owned after the offering.

Item 2. General Description of Issuer

(a) Concisely discuss the organization and operation or proposed operation of the issuer. Include the following:

(i) basic identifying information, including:

(A) The date and form of organization of the issuer and the name of the state under whose laws it is organized;

(B) A brief description of the nature of a small business investment company; and

(C) The classification and subclassification of the issuer as specified in sections 4 and 5 of the Investment Company Act of 1940.

(ii) a concise description of the investment objectives and policies of the issuer, including:

(A) If those objectives may be changed without a vote of the holders of the majority of the voting securities, a brief statement to that effect; and

(B) A brief discussion of how the issuer proposes to achieve its objectives, including:

(1) The types of securities (for example, bonds, convertible debentures, preferred stocks, common stocks) in which it may invest, and the proportion of the assets which may be invested in each such type of security;

(2) If the issuer proposes to have a policy of concentrating in a particular industry or group of industries, identification of such industry or industries. (Concentration, for purposes of this item, is deemed to be 25% or more of the value of the issuer's total assets invested or proposed to be invested in a particular industry or group of industries).

(C) A concise description of any other policies of the issuer that may not be changed without the vote of the majority of the outstanding voting securities, including those policies which the issuer deems to be fundamental within the meaning of Section 8(b) of the 1940 Act.

(D) A concise description of those significant investment policies or techniques (such as investing for control or management or investing in other investment companies) that are not described pursuant to subparagraphs (B) or (C) above that issuer employs or has the current intention of employing in the forseeable future.

Note.—If the effect of a policy is to prohibit a particular practice, or, if the policy permits a particular practice but the issuer has not employed that practice within the past year and has no current intention of doing so in the foreseeable future, do not include disclosure as to that policy.

(b) Discuss briefly the principal risk factors associated with investment in the issuer, including factors peculiar to the issuer as well as those generally attendant to investment in a small business investment company with investment policies and objectives similar to the issuer.

Item 3. Plan of Distribution

(a) If the securities are to be offered through underwriters, give the names of the principal underwriters, and state the amounts underwritten by each. Identify each underwriter having a material relationship to the issuer and state the nature of the relationship. State briefly the nature of the underwriters' obligation to take the securities.

(b) State briefly the discounts and commissions to be allowed or paid to dealers, including all cash, securities, contracts or other consideration to be received by any dealer in connection with the sale of the securities.

(c) If "finder's fees" are to be paid, identify the "finder," the nature of the services rendered and the nature of any relationship between the "finder" and the issuer, its officers, directors, promoters, principal stockholders and underwriters (including any affiliates thereof). If a "finder" is not registered with the Commission as a broker or dealer, disclose that fact.

(d) Outline briefly the plan of distribution of any securities being issued which are to be offered through the selling efforts of brokers or dealers or otherwise than through underwriters.

(e)(1) Describe any arrangements for the return of funds to subscribers if all of the securities to be offered are not sold; if there are no such arrangements, so state.

(2) If there will be a material delay in the payment of the proceeds of the offering by the underwriter to the issuer, the nature of the delay and the effects on the issuer should be briefly described.

Item 4. Management and Certain Security Holders of the Issuer

(a) Give the full names and complete addresses of all directors, officers, members of any advisory board of the issuer and any person who owns more than 5 percent of any class of securities of the issuer (other than the Small Business Administration if the issuer is a small business investment company as defined in section 230.602(a) of this chapter).

(b) Identify each person who as of a specified date no more than 30 days prior to the date of filing of this registration statement, controls the issuer as specified in section 2(a)(9) of the Investment Company Act of 1940.

(c) Give the business experience over the last five years of any person named in (a) above who is or is expected to be significantly involved in the investment decisions of the issuer or in providing advisory services, direction or control of portfolio companies of the issuer.

(d) State the aggregate annual remuneration of each of the three highest-paid persons who are officers or directors of the issuer and all officers and directors as a group during the issuer's last fiscal year. State the number of persons in the group referred to above without naming them.

(e) Describe all direct and indirect interests (by security holdings or otherwise) of each person named in (a) above (i) in the issuer and (ii) in any material transactions within the past two years or in any material proposed transaction to which the issuer was or is to be a party. Include the cost to such persons of any assets or services for which any payment by or for the account of the issuer has been or is to be made.

(f) Provide, if applicable, for each investment adviser of the issuer as defined in section 2(a)(20) of the Investment Company Act of 1940:

(i) the name and address of the investment adviser and a brief description of its experience as an investment adviser, and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business. (If the investment adviser is subject to more than one level of control, it is sufficient to give the name of the ultimate control person.)

(ii) a brief description of the services provided by the investment adviser. (If, in addition to providing investment advice, the investment adviser or persons employed by or associated with the investment adviser are, subject to the authority of the board of directors, responsible for overall management of issuer's business affairs, it is sufficient to state that fact in lieu of listing all services provided.)

(iii) a brief description of the investment adviser's compensation. (If the issuer has been in operation for a full fiscal year, provide the compensation paid to the adviser for the most recent fiscal year as a percentage of overage net assets. No further information is required in response to this Item if the adviser is paid on the basis of a percentage of net assets and if the issuer has neither changed investment advisers nor changed the basis on which the adviser was compensated during the most recent fiscal year. If the fee is paid in some manner other than on the basis of average net assets, briefly describe the basis of payment. If the registrant has not been in operation for a full fiscal year, state generally what the investment adviser's fee will be as a percentage of average net assets, including any breakpoints, but it is not necessary to include precise details as to how the fee is computed or paid.)

Item 5. Capital Stock and Other Securities

(a) Describe concisely the nature and most significant attributes of the security being offered, including: (i) a brief discussion of voting rights; (ii) restrictions, if any, on the right freely to retain or dispose of such security; (iii) conversion rights, if applicable; and (iv) and any material obligations or potential liability associated with ownership of such security (not including investment risks).

(b) If the rights of holders of such security may be modified otherwise than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) If issuer has any other classes of securities outstanding (other than bank borrowings or borrowings that are not senior securities under Section 18(g) of the 1940 Act [15 U.S.C. 80a–18(g)]), identify them and state whether they have any preference over the security being offered.

(d) Describe briefly the issuer's policy with respect to dividends and distributions, including any options shareholders may have as to the receipt of such dividends and distributions.

(e) Describe briefly the tax consequences to investors of an investment in the securities being offered. Such description should not include detailed discussions of applicable law. If the issuer intends to qualify for treatment under Subchapter M, it is sufficient, in the absence of special circumstances, to state briefly that in that case: (1) the issuer will distribute all of its net income and gains to shareholders and that such distributions are taxable income or capital gains; (ii) shareholders may be proportionately liable for taxes on income and gains of the issuer but that shareholders not subject to tax on their income will not be required to pay tax on amounts distributed to them; and that (iii) the issuer will inform shareholders of the amount and nature of such income or gains.

(f) Where there is a material disparity between the public offering price and the effective cash cost to officers, directors, promoters and affiliated persons for shares acquired by them in a transaction during the past three years, or which they have a right to acquire, there should be included a comparison of the public contribution under the proposed public offering and the effective cash contribution of such persons. In such cases, and in other instances where the extent of the dilution makes it appropriate, the following shall be given: (1) the net tangible book value per share before and after the distribution; (2) the amount of the increase in such net tangible book value per share attributable to the cash payment made by purchasers of the shares being offered; and (3) the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

Item 6. Financial Statements

Furnish appropriate financial statements of the issuer as required below. Such statements shall be prepared in accordance with generally accepted accounting principles and practices. The statements required for the issuer's latest fiscal year shall be certified by an independent public accountant or certified public accountant in accordance with Regulation S–X if the issuer has filed or is required to file with the commission certified financial statements for such fiscal year; the statements filed for the period or periods preceding such latest year need not be certified.

(a) A balance sheet as of a date within 90 days prior to the date of filing the notification with the commission.

(b) A profit and loss or income statement for each of the last two fiscal years and for any subsequent period up to the date of the balance sheet furnished pursuant to (a) above.

Schedule B—Contents of Offering Circular for Business Development Companies

General Instructions

Same as General Instructions to Schedule A.

Item 1

Same as Item 1 of Schedule A.

Item 2. General Description Issuer

(a) Concisely discuss the organization and operation or proposed operation of the issuer. Include the following:

(i) basic identifying information, including:

(A) The date and form of organization of the issuer and the name of the state under the laws of which it is organized; and

(B) A brief description of the nature of a business development company.

Note.—A business development company having a wholly-owned small business investment company subsidiary should disclose how the subsidiary is regulated, e.g., as an investment company registered under the Investment Company Act of 1940, and what percentage of the parent company's assets are, or are expected to be, invested in the subsidiary. The business development company should also describe the small business investment company's operations, including any material difference in investment policies between the business development company and its small business investment company subsidiary.

(ii) A concise description of the investment objectives and policies of the issuer, including:

(A) If those objectives may be changed without a vote of the holders of the majority of the voting securities, a brif statement to that effect; and

(B) A brief discussion of how the issuer proposes to achieve such objectives, including:

(1) The types of securities (for example, bonds, convertible debentures, preferred stocks common stock) in which it may invest, indicating the proportion of the assets which may be invested in each such type of security;

(2) If the issuer proposes to have a policy of concentrating in a particular industry or group of industries, identification of such industry or industries. (Concentration, for purposes of this item, is deemed to be 25 percent or more of the value of the issuer's total assets invested or proposed to be invested in a particular industry or group of industries).

(3) Investment in companies for the purpose of exercising control or management;

(4) The policy with respect to any assets that are not required to be invested in eligible portfolio companies or other companies qualifying under section 55 of the Investment Company Act of 1940;

(5) The policy with respect to rendering significant managerial assistance to eligible portfolio companies or other companies qualifying under section 55 of the Investment Company Act of 1940;

(6) The policy with respect to investing as part of a group.

(C) Identification of any other policies of the issuer that may not be changed without the vote of the majority of the outstanding voting securities, including the policy not to withdraw its election as a business development company without approval by the majority of the outstanding voting securities.

(D) A concise description of those significant investment policies or techniques (such as investing for control or management) that are not described pursuant to subparagraphs (B) or (C) above that the issuer employs or has the current intention of employing in the forseeable future.

(b) Discuss briefly the principal risk factors associated with investment in the issuer, including factors peculiar to the issuer as well as those generally attendant to investment in a business development company with investment policies and objectives similar to the issuer.

Item 3

Same as Item 3 of Schedule A.

Item 4

Same as Item 4 of Schedule A.

Item 5. Portfolio Companies

Furnish the following information, in the tabular form indicated, with respect to the portfolio companies of the issuer, as of a specified date within 90 days prior to the date of filing the notification with the Commission pursuant to an offering of securities under Regulation E.

Name and address of portfolio companies	Nature of its principal business	Title of securities owned, controlled or held by issuer	Percentage of class owned, controlled or held by issuer	Amount of loan to portfolio company (footnote general terms of loan)

Item 6

Same as Item 5 of Schedule A.

Item 7

Same as Item 6 of Schedule A.

8. Paragraph (b)(2) of § 230.252 of Regulation A is revised to read as follows:

§ 230.252 Securities exempted.

* * * * *

(b)* * *

(2) Securities of any investment company registered or required to be registered under the Investment Company Act of 1940, or any company which has elected to be regulated as a business development company under the Investment Company Act of 1940 or has notified the Commission that it intends to elect to be regulated as a business development company pursuant to section 54 of the Investment Company Act of 1940.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

9. Section 239.200 is revised and paragraph (e)(3) is added and paragraph (f) is revised of Item 9 of Form 1–E described in § 239.200 as follows:

§ 239.200 Form 1–E—Notification under Regulation E.

This form shall be used for notification pursuant to Rule 604 (§ 230.604 of this chapter) of Regulation E (§§ 230.601–230.610a of this chapter) by a small business investment company or business development company described in Rule 602 (§ 230.602 of this chapter).

Form 1–E—Notification under Regulation E

* * * * *

Item 9. Exhibits

* * * * *

(e) * * *

(3) If a Preliminary Offering Circular will be distributed as permitted by Rule 605(f), the Consent and Certification by Underwriter shall include the following additional paragraph:

The undersigned hereby undertakes, in connection with any distribution of the Preliminary Offering Circular as permitted by Rule 605(f), (a) to keep an accurate and complete record of the name and address of each person furnished such Preliminary Offering Circular and (b) if such Preliminary Offering Circular is inaccurate or inadequate in any material respect, to furnish a revised Preliminary Offering Circular or an offering circular of the type referred to in Rule 605(f)(4) to all persons to which the securities are to be sold at least 48 hours prior to the mailing of any confirmation of sale to such persons under circumstances that it would normally be received by them 48 hours prior to their receipt of confirmation of the sale.

(f) If the issuer is a small business investment company as defined in § 230.602(a) of this chapter and has not yet obtained a license from the Small Business Administration, copies of any contract or arrangment made to assure that the funds paid in by investors for the securities to be offered will be returned to them in the event such license is not obtained.

* * * * *

Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments to Regulation E and Regulation A proposed herein. The analysis notes that the proposed amendments would raise the offering ceilings, permit use of a preliminary offering circular and revise the disclosure requirements under Regulation E. The amendments would also permit business development companies to use Regulation E, and preclude them from using Regulation A. The objective of the proposed amendments is to increase the ability of small business investment companies and business development companies to raise capital utilizing the offering exemption under Regulation E by expanding the companies eligible to use Regulation E and by facilitating the process for making small offerings under that regulation.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Stephen C. Beach, Office of Disclosure Legal Services, Securities and Exchange Commission, (202) 272–3040, Room 5104, 450 Fifth Street, NW., Washington, D.C. 20549.

Statutory Authority

The Commission is proposing these amendments to Regulation E and Regulation A under the Securities Act of 1933 pursuant to sections 3(b) and 3(c) of the Securities Act of 1933 [15 U.S.C. 77c (b), (c)] and section 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–37].

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–11724 Filed 4–30–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM84–12–000]

Revisions to the PGA Regulations; Notice of Inquiry

April 27, 1984.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this Notice of Inquiry to obtain information to determine to what extent, if any, the purchased gas adjustment (PGA) regulations in § 154.38(d)(4) should be revised. In particular, the Commission seeks comments on whether changes may be appropriate in light of the deregulation of certain wellhead prices on January 1, 1985. In addition, the Commission requests comments on whether it should propose general revisions to the format, methodology, or components of PGA filings.

DATES: The deadline for written comments is May 31, 1984.

ADDRESS: An original and fourteen copies of written comments should reference Docket No. RM84–12–000 and should be submitted to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Barbara Christin, Office of the General Counsel, (202) 357–8033

Warren Edmunds, Chief, Gas Pipeline and Rates Adjustments Branch, Office of Pipeline & Producer, Regulation, (202) 357–5379

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing this Notice of Inquiry to obtain information and views that will aid the Commission in determining to what extent, if any, the purchased gas adjustment (PGA) regulations in § 154.38(d)(4) should be revised. In particular, the Commission seeks comments on whether changes may be appropriate in light of the deregulation of certain wellhead prices on January 1, 1985. In addition, the Commission requests comments on whether it should propose general revisions to the format, methodology, or components of PGA filings.

II. Revisions Due to Partial Decontrol

Under the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432), wellhead price controls will be removed on a substantial portion of natural gas on January 1, 1985. There is concern that there will be sharp fluctuations in the average cost of natural gas to pipeline purchasers occurring immediately after decontrol in 1985. Indefinite price escalation clauses in purchase gas contracts will qualify certain production for price increases in 1985. On the other hand, pipelines will be faced with potential load loss if their purchased gas costs exceed the commodity value of the gas in the markets they serve.

The Commission is concerned that the present PGA regulations may not transmit market signals soon enough to enable pipelines to respond to changes in gas costs due to this expanded deregulation. Because of the semi-annual nature of the PGA, major changes in a pipeline's purchased gas costs due to increases in wellhead prices, contract renegotiations, or unilateral actions taken by the pipeline to reduce its gas costs may not be reflected quickly in the pipeline's rates. Thus, if prices for deregulated gas change rapidly, the use of historical prices in PGAs could lead to large under- or over-recoveries of gas costs which could adversely affect pipelines' markets and cause recovery problems.

These concerns have led the Commission to consider whether the PGA procedures should be changed or waived to give the pipelines greater flexibility to react to the partial deregulation that will occur on January 1, 1985. The Commission, therefore, requests comments on a number of possibilities that may provide pipelines with increased flexibility in January 1985.

A. Revisions to the Current Adjustment Portion of a Pipeline's Rates

The Commission's current regulations require that a pipeline file its PGA not more frequently than semi-annually. The Commission is considering whether to permit pipelines to revise the current adjustment portion of their PGA either more frequently than every six months or less frequently under one of the following methods.

1. *One-time filing.* Each pipeline with an effective PGA clause in its tariff would be directed to file a special adjustment to be effective January 1, 1985, which would reflect its *estimated* cost of purchased gas for the six-month period, January 1, 1985, through June 30, 1985. This approach could reduce the potential for large over- or under-recovered gas costs that might occur in early 1985. It would also eliminate any competitive advantages for pipelines that have PGA effective dates other than January 1 because all the pipelines would simultaneously estimate their current adjustment to reflect the deregulation of certain well-head gas prices. Pipelines would be precluded from adjusting PGA rates until July 1, 1985. In addition, each pipeline would be required to file information by July 31, 1985, on the *actual* cost of gas, for each of the first six months of 1985, in sufficient detail to show the level of prices paid, the volumes associated with those prices, and a comparison of the actual and estimated data. Under this approach, the pipelines would return to their normal PGA cycles for adjustments to become effective on and after July 1, 1985 (including normal treatment of the deferred account).

However, because purchased gas costs may vary considerably throughout 1985, it may be appropriate to provide for a second estimated filing to be effective for the period July 1, 1985, through December 31, 1985.

The Commission requests comments specifically on both of these options.

2. *Quarterly revisions.* The Commission could provide increased flexibility by permitting quarterly revisions to a pipeline's current cost of gas. These quarterly revisions could be automatically allowed, or could be permitted only under certain circumstances. For instance, the regulations could allow quarterly changes only if a pipeline took certain actions, such as the exercise of market out clauses. Alternatively, the regulations could impose a threshold requirement so that only a positive or negative adjustment of more than a specified amount, such as five cents, would be allowed. The pipeline could be permitted to reflect only specific changes in a quarterly revision, such as a change in the price of deregulated supplies, in pipeline rates, or in purchase mix.

3. *Monthly revisions.* Alternatively, a pipeline could be permitted to make monthly revisions to the current adjustment if a significant change occurs in purchased gas costs for deregulated and pipeline supplies. The Commission requests comments on this approach and on how a "significant change" might be defined.

The Commission is concerned that frequent filings or too much flexibility in the estimation of prices may result in an inadequate review of the PGAs. In addition, state commissions may be unwilling or unable to allow distribution companies to track frequently occurring rate changes. The Commission is also concerned that if a pipeline is allowed to immediately reflect increased gas costs in its PGA, instead of semi-annually, the pipeline may have less of an incentive to minimize or stabilize gas costs. The Commission specifically requests comments from state commissions and distribution companies on the problems that frequent revisions would present.

B. Semi-Annual Nature of the PGA

The Commission requests comments on whether it should change the semi-annual nature of the PGA. For example, if the regulations are amended, as discussed above, to allow more frequent changes to the current cost of gas, it may be appropriate to require a base annual PGA that can be revised quarterly or monthly to reflect changes only in the cost of deregulated and pipeline gas supplies. Alternatively, the regulations could permit a pipeline to file its PGA quarterly, instead of making quarterly revisions to the current cost of gas portion of its PGA. Quarterly PGA filings, however, may be administratively burdensome and costly for the pipelines as well as for the Commission and interested parties who review the filings.

C. Method of Valuation

Section 154.38(d)(4)(iv)(*a*) of the PGA regulations provides that a pipeline's PGA may reflect change in the maximum lawful prices of gas that producers are permitted to charge under the NGPA. Estimates of prices for deregulated supplies and for pipeline supplies are not permitted because those prices are determined by contracts and not by the NGPA. A pipeline's purchased gas cost reflects the rate that will be in effect for deregulated gas supplies on the effective date of the

PGA. As a result, under the current regulations, in January 1985 a pipeline may be faced with the problem of large under- or over-recovered gas costs.

The Commission, therefore, requests comments on whether it should propose amendments to the regulations to permit a pipeline to estimate prices for deregulated supplies that are priced under indefinite price escalator clauses based on the prices it anticipates paying during the PGA period. Alternatively, the regulations could be amended to specify that the price for deregulated supplies would be either the price in effect on the effective date of the PGA, if the pipeline knows what the price will be, or the last actual prices paid by the pipeline prior to the filing date of the PGA.

These options could be proposed in combination with the other options listed above. The Commission is concerned, however, that the ability to estimate prices for deregulated supplies in quarterly adjustment could result in a pipeline's using its PGA as a marketing tool rather than as a tracker of actual costs. For example, a pipeline may underestimate the price of deregulated supplies in order to make its rates for that quarter more competitive, and then attempt to recover the resulting undercollections from less price sensitive customers in a subsequent period.

The Commission also requests comments on the related issue of whether a pipeline should be required to use actual prices it knows will occur during an adjustment period or whether it should be allowed to use estimated prices.

D. Price Information

Pipelines currently are required to provide information in their PGA filings on the NGPA category and subcategory for each purchase. After January 1, 1985, the categories and subcategories for decontrolled supplies will not be the primary factor determining their price. The Commission requests comments on whether additional information will be needed to adequately review a filing for compliance, for purchasing practices, and, where appropriate, for a determination under section 601(c)(2) of the NGPA. The Commission, for example, could require a pipeline to include information relating to the contractual basis for the prices of the deregulated supplies.

E. Nature of Revisions

The Commission is considering whether any of the changes to the PGA procedures discussed above should be implemented on a permanent or a temporary basis. At present, it is not known how quickly prices will change after deregulation. Prices may change slowly and may stabililize after a short time, thus reducing the need for more frequent PGA filings. Changes in procedures for a limited period of time, such as one year, may be preferable. The Commission could then consider, based on the year of experience, whether to continue the changes, let them expire, or propose these or other permanent changes to the PGA format.

Accordingly, the Commission seeks comments on whether any of the above suggestions should be implemented on a temporary basis, such as by a waiver of portions of the PGA regulations, or by permanent amendments to the regulations.

III. General Revisions to the PGA

In addition to the above changes that are being considered in view of partial decontrol, the Commission also requests comments on whether to make other revisions to the PGA regulations. The PGA regulations, which are fairly general, were promulgated in 1972 [1] and have not been changed substantially since that time.

The Commission believes that it may be appropriate to update the regulations to include established Commission policy, to standardize procedures, and to clarify some of the terminology. Listed below are the areas being considered for revision by the Commission.

A. Revisions to Deferred Account Surcharge

1. *Treatment of minimum bill costs and revenues.* The regulations do not address specifically the treatment of minimum bill costs and revenues in a pipeline's PGA. The Commission is concerned that, because the regulations are general, some pipelines might be confused as to how they should treat these costs and revenues in Account No. 191 and in gas purchase accounts.

The purchase of PGA clauses is to permit pipelines to track their purchased gas costs semi-annually. Overcollections and undercollections of purchased gas costs are reconciled through the use of Account No. 191, thus keeping a pipeline's revenues and expenses in balance. Any revenues relating to gas costs should be accounted for in Account No. 191 balances. Thus, a pipeline is not entitled to in minimum bill revenues attributable to gas costs.

In addition, while a pipeline may include minimum bill charges paid to its pipeline suppliers in Account No. 191 balances, the Commission, in individual cases, has not permitted the pipeline to include unpaid minimum bill costs in Account No. 191 balances.

The Commission, therefore, requests comments on the following questions. [2]

a. Should the regulations be amended to specify the treatment of mimimum bill costs and revenues in a PGA, or are there situations that would warrant treating these costs and revenues on a case by case basis?

b. Should the regulations specify the accounts or subaccounts that should be used for these minimum bill costs?

2. *Carrying charges.* Section 154.38(d)(4)(iv)(*c*) of the regulations allows but does not require the imposition of carrying charges on deferred account balances in Account No. 191. If a pipeline's deferred account balances in Account No. 191 are in an overcollected status, the inclusion of carrying charges compensates the pipeline's customers for paying the higher costs. However, when a PGA surcharge adjustment reflects undercollected balances in Account No. 191, the imposition of carrying charges compensates the pipeline for the undercollections. The Commission requests comments on whether the regulations should be amended to require carrying charges on the deferred account balances.

3. *Refunds.* Section 154.38(d)(4)(vii) of the PGA regulations requires that the jurisdictional portion of all supplier refunds (including interest received) shall be flowed through Account No. 191 to the pipeline's jurisdictional customers. Under this procedure, pipelines that make semi-annual PGA filings passthrough a refund over a six-month period.

The Commission believes that, generally, this procedure is the most equitable and least burdensome. However, problems with this six-month flowthrough requirement may arise, depending on the amount of the refund, the number of jurisdictional customers affected by the refund, and the pattern in which the overpayments were assessed on the customers.

For example, the flowthrough of a large refund from a period substantially longer than six months may result in an unfair competitive advantage for the

[1] Order Nos. 452 and 452-A, Docket No. R-406 Purchased Gas Adjustment Provision in Natural Gas Pipeline Companies' FPC Gas Tariffs, issued April 14, 1972, and June 13, 1972, respectively, 47 FPC 1049, 1510.

[2] Such questions may or may not be relevant to this proceeding depending on Commission action in Docket No. RM83-71-000, Elimination of Variable Costs from Certain Natural Gas Pipeline Minimum Commoidty Bill Provisions, 48 FR. 39,238 (August 30, 1983).

pipeline. The proposed PGA adjustment will reflect the refund, but not accrued increases in gas costs. Thus, the refunding pipeline's commodity rate could temporarily undercut a competing pipeline's rate, despite the fact that the refunding pipeline's underlying cost of gas is higher than its competitors.

Another potential refund problem with the PGA mechansim as presently structured is that the distribution of refunds will be based on actual sales during the period the refunds are being made, while the overpayments were collected during a different period. Customers' sales levels and the ratio of those levels to total jurisdictional sales are often different for the two periods. Thus, due to the seasonal demand for natural gas or the expiration of a service agreement, some consumers who made the overpayments may not be on the system when the refunds are made.[3]

One alternative to the PGA approach, particularly where a large refund is involved, is a lump sum cash payment based either on actual volumes sold during the period of overpayment or on total volumes sold during the most recent twelve months of actual sales. This procedure has several advantages. First, it provides an immediate benefit to the pipeline's customers to the full extent of the refund. Second, if the refund is based on volumes associated with the period of overpayment, it benefits those who actually made the overpayments. Third, a lump sum cash refund avoids distortion of market signals and unfairness to the pipeline's competitors. Finally, it enables the pipeline's customers to receive the refunds to which they are entitled and, at the same time, to purchase gas at a lower cost from an alternate supplier.

However, there are often administrative disadvantages to this approach. For example, where several interstate pipelines sell to one another, a refund by an upstream pipeline would trigger several downstream refund checks to be sent to various downstream customers. A distribution company may, therefore, receive a refund that has been passed through several pipelines. The amount of the refund received may be so small as to have little or no effect on the distribution company's rates. However, the pipelines may have incurred significant administrative costs in making the lump sum refunds to that company.

Another alternative refund methodology is a combination of the PGA passthrough and the lump sum cash refund. Pipelines could use Account No. 191 for refund accumulation and disbursement up to an agreed-upon amount for each pipeline. Refunds exceeding that level would be distributed as cash payments within a specified period of time and would be based on historical sales volumes. Accumulated refunds would be cleared with each scheduled PGA filing.

A fourth approach would allow the pipeline to retain the refund under certain conditions as an offset against future rate increases. For example, a pipeline might be permitted to retain refunds if it agreed not to increase its rates for a specified period of time. The pipeline would use the refund to offset purchase gas cost increases occurring during that period. A pipeline could use this method to maintain rate stability for extended periods.

Finally, the Commission believes that a deferred account surcharge adjustment based on a twelve-month recovery period, instead of a six-month period, may alleviate some of these problems without creating the administrative burdens associated with the lump sum methodology.

In addition to the refund options described above, the Commission also requests comments on the following questions.

a. How should anticipated refunds be treated in the context of the above described refund options?

b. Should pipelines be permitted to include, in the surcharge adjustment, refunds received after the close of the deferral period but before the effective date of the PGA adjustment?

c. Should specific accounting methodologies be mandated for refunds?

d. Should all refunds be flowed through under one methodology or should different procedures apply to producer, pipeline supplier, and pipeline self-generated refunds?

e. Should all pipelines be required to follow the same refund procedure? This requirement would insure that unfair competitive advantages do not occur between competing pipelines as a result of differing refund treatment.

4. *Timing of surcharge adjustment.* The Commission is concerned that problems similar to those discussed above relating to refunds may occur because of the timing of the surcharge adjustment. Under the Commission's current PGA regulations, the months of the year during which the Account No. 191 surcharge is collected do not correspond to the months of the year in which the over- or under-recoveries of gas costs were incurred. For example, if a pipeline over-recovers its gas costs during the winter months, these overcollections may be refunded to the pipeline's summer industrial customers. Because of seasonal demand, the pipelines customers who were overcharged during the winter months may not benefit from the surcharge credit in effect for the summer months. Therefore, the Commission requests comments and suggestions on possible solutions to this problem.

5. *Treatment of exchange transactions.* The regulations permit a pipeline to reflect in Account No. 191 actual costs associated with nonconcurrent exchange transactions. A nonconcurrent transaction exists when one pipeline delivers gas several months or more before the other pipeline will redeliver the gas. This is in contrast to most exchange transactions where both pipelines deliver equal volumes of gas each month, or, if the deliveries are unequal, where the resulting imbalance usually will be corrected within 30–90 days. A pipeline recovers its actual costs from these concurrent exchange transactions through its Account Nos. 800–803, where it should reflect the actual purchased gas costs of the gas it delivers. Presently, only the noncurrent exchange transactions are passed through Account No. 806 and adjusted for computation of the over- or under-collected gas costs recorded in Account No. 191. If all exchange transactions are flowed through Account No. 806 into Account No. 191, the purchase gas costs would be further adjusted to reflect assigned values for both the noncurrent and concurrent exchange gas rather than the actual original cost of the gas exchanged. The Commission requests comments on whether it should amend the PGA regulations to permit this type of treatment of exchange costs.

6. *Costs.* Purchased gas costs ordinarily should not be included in Account No. 191 until they are actually paid. It is the Commission's policy that the costs reflected in the Account No. 191 surcharge calculation should only be outstanding due to normal billing and accounts payable payment cycles. This policy is meant to insure that unpaid accruals are not flowed through a pipeline's purchased gas adjustment as a surcharge resulting in precollections of gas costs from the pipelines customers. The Commission requests comments on whether it should amend its PGA regulations to codify this policy.

B. Other Revisions

1. *Change to notice period.* Section 154.38(d)(4)(v) of the regulations requires a pipeline to file its PGA at least 30 days

[3] Sales to industrial customers form a larger portion of a pipeline's summer sales than sales in winter months.

before the PGA rate is to become effective. In recent years, PGA rate filings have become more complex. The 30-day notice period makes it difficult for the Commission, as well as a pipeline's customers or other interested parties, to conduct a preliminary evaluation of the pipeline's PGA rate filing. Accordingly, the Commission is considering, and requests comments on, whether to add, as a condition to a pipeline's being permitted to continue to include a PGA clause in its tariff, a requirement that a pipeline give the Commission, customers, and interested parties at least 45 days notice (or some longer period) for their PGA rate adjustments instead of the present 30-day minimum notice period.

2. *Changes to tariff sheets.* Most pipelines identify adjustments to their current average cost of gas (current adjustment) separately from their surcharge adjustment on their tariff sheets and in their PGA filings. However, several pipelines combine the current and the surcharge adjustments to show a total change in gas costs. The Commission is considering whether to require all pipelines to calculate and show their current and their surcharge adjustments separately on their tariff sheets and in their PGA filings.

Although pipelines reflect their average cost of gas on the rate sheet included in their tariff, many do not specify if the calculations are based on a unit of sales or a unit of purchase methodology. The Commission requests comments on whether it should require a pipeline to specify on its tariff sheet the methodology it uses to calculate its average cost of gas.

3. *Lost and unaccounted for gas.* Many pipelines currently compute their average cost of purchased gas using a unit of sales methodology.[4] Under this methodology, a pipeline is able to recover costs expended for all gas that either is used by the pipeline in its operations or is lost or unaccounted for. Moreover, the amount of lost or unaccounted for gas may not correspond with amounts normally reflected in the pipeline's rates. The Commission is concerned that a pipeline using this methodology may not have a sufficient incentive to minimize expenses or costs for gas that is lost or unaccounted for. The Commission requests comments on whether it should limit the amount that a pipeline can collect through its PGA for lost or unaccounted for gas. If the Commission limits the amount recovered through the PGA, a pipeline would be able to seek recovery of appropriate additional amounts through its next general section 4 rate filing.

4. *Miscellaneous.* Finally, in addition to all the issues discussed in this Notice, the Commission requests comments and suggestions on any other problems or changes that should be considered in this proceeding.

[4] The average cost of purchased gas under a unit of sales methodology is determined by dividing total jurisdictional purchased gas costs by total jurisdictional sales.

IV. Request for Public Comment

The Commission invites interested persons to submit comments, data, views, and other information concerning the matters set out in this notice. An original and 14 copies of comments must be received by the Commission before 5:00 p.m., May 31, 1984. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM84-12-000.

All written submissions will be placed in the Commission's public files and will be available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11770 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 141

Proposed Customs Regulations Amendment Relating to Additional Information Required on Invoices for Imported Footwear

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by updating the information required on invoices of imported footwear. Customs has determined that much of the information now required, which generally is descriptive of footwear, no longer is necessary, and that other information, relating to the construction of footwear, is needed. The information is used by Customs to establish the correct tariff classification and value of imported footwear for duty and/or quota purposes.

DATE: Comments must be received on or before July 2, 1984.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Donald F. Cahill, Classification and Value Division (202-566-8181); Operational Aspects: Alex Olenick, Duty Assessment Division (202-566-2957); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Invoices of merchandise imported into the United States are required by section 481, Tariff Act of 1930 (19 U.S.C. 1481), to include certain specified information and "any other facts deemed necessary to a proper appraisement, examination, and classification of the merchandise that the Secretary of the Treasury may require." Section 141.89(a), Customs Regulations (19 CFR 141.89(a)), requires additional information on invoices of footwear classifiable under schedule 7, part 1A, Tariff Schedules of the United States (19 U.S.C. 1202). The additional information assists Customs in establishing the correct tariff classification and value of imported footwear for duty and/or quota purposes.

Footwear manufacturing methods have change since the additional reporting requirements were established. Approximately seven new distinctions in footwear construction which result in classification differences are effective for footwear exports since July 1, 1981 [Pub. L. 96-39, July 26, 1979, section 223(b)(2)]. As a result, much of the information now required, which generally is descriptive of footwear, no longer is necessary, and other information, relating to the construction of footwear, is needed. Accordingly, Customs proposes to amend § 141.89(a) to reflect those changes and to update the information reporting requirements.

Original Proposal

A notice proposing to amend § 141.89(a) concerning the additional information required to be reported by importers of footwear, was published in the **Federal Register** on July 28, 1978 (43 FR 32819). Essentially, that proposal requested comments on the following eleven (11) questions concerning the

material(s) used in the manufacture of imported footwear, and the nature of the manufacturing process itself:

(1) The manufacturer's style number.

(2) The importer's style number.

(3) Component materials of upper with percentage (value) of each component (if fiber, and if fiber plus rubber and/or plastic is less than 50 percent, state the percentage by weight and value of each fiber used).

(4) Component material of entire article with percentage (value) of each component. If the materials in (3) and (4) are primarily of leather, answer only (10) and (11). Otherwise, answer all questions.

(5) Component materials of sole with percentage (value) of each component.

(6) Percentage of weight of entire article.

(a) Fiber.

(b) Rubber and/or plastic.

(c) Other (specify material).

(7) Percentage of exterior surface area of the upper:

(a) Leather.

(b) Rubber and/or plastic.

(c) Other (specify material).

(8) Whether there is a foxing-like band around bottom of upper.

(9) Whether the upper extends over the ankle.

(10) Type of construction:

(a) Cement.

(b) Molded or vulcanized.

(c) Turned.

(d) Unsoled moccasin.

(e) Welt.

(f) Other.

(11) If the component material of chief value of the entire article is leather, state if made on a male or female last. Customs Form 5523 may be used for furnishing the additional information.

Discussion of Comments

In response to the previous proposal we received 17 comments. Many parties commented on the need to retain Customs Form 5523 as the means to record the required additional information. Customs agrees that continued use of this form for that purpose is warranted and a statement to that effect is included in this proposal.

Other parties commented on the information required on the invoices. In accordance with one request, a "type of construction" category has been included and slip-lasted (California construction) included within that category. Another suggestion that a distinction be made between molded, injection-molded, and vulcanized construction has also been included. In response to a request that the various types of construction be defined, the new proposal includes definitions of "cement footwear," "turned," and "welt." Because attempts to define "molded" or "vulcanized construction" could cause confusion, these terms are not defined.

Another commenter requested that instructions be provided for questions 3, 4, 5, and 7 in the original proposal, as they believe those questions requested information not previously required.

To assist importers in furnishing the requested information, question 3 in the original proposal (question 4 in the new proposal) has been clarified. Questions 6 and 8 in the new proposal basically elicit the same information as questions 6 and 8 of present § 141.89, except for the value percentage of component materials of the sole. Further, because "material in chief value" is included in the new proposed definitions, Customs does not believe those questions require further clarification.

In response to a request for clarification of several other terms, the new proposal also includes a definition of "upper". However, Customs believes that to try to define the term "wedge cover" would not be helpful and rather could create confusion.

The new proposal retains the question concerning the use of foxing or a foxing-like band in footwear construction. For an explanation as to what constitutes foxing or a foxing-like band around the bottom of the upper, reference should be made to T.D. 83–116, published in the **Federal Register** of May 23, 1983 (48 FR 22904), in which Customs addressed this issue. That document also sets forth guidelines relating to the characteristics of foxing and a foxing-like band.

New Proposal

After consideration of the comments received in response to the initial proposal and further review of the matter, Customs has prepared a new expanded proposal to ensure that the information received will be adequate and complete and will aid in the correct classification of imported footwear. In addition to providing certain definitions to be used in completing footwear invoices, the new proposal clarifies the question concerning material(s) of chief value. The new proposal also will result in a revision of Customs Form 5523, titled "Invoice Details For Footwear."

Comments

Customs invites written comments from all interested parties on this expanded proposal. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

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

Executive Order 12291

It has been determined that the proposed amendment is 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 this amendment because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is certified under the provisions fo section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information requirements contained in this document have been submitted to the Office of Management and Budget pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Comments on these requirements should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for the U.S. Customs Service. Copies of these comments should also be sent to Customs.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 1481, 1484, 1624), and 77A Stat. 14 (19 U.S.C. 1202 (General Headnote 11, Tariff Schedules of the United States)).

List of Subjects in 19 CFR Part 141

Customs duties and inspection, Imports.

PART 141—[AMENDED]

Proposed Amendment

It is proposed to amend § 141.89(a), Customs Regulations (19 CFR 141.89(a)), by revising the paragraph for footware to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

(a) * * *

Footwear; classifiable under schedule 7, part 1A, Tariff Schedules of the United States (19 U.S.C. 1202)—

(1) Manufacturer's style number.
(2) Importer's style number.
(3) Type of shoe:
(i) After-ski boot
(ii) Basketball shoe
(iii) Beachcomber
(iv) Boat shoe
(v) Clog
(vi) Disposable, not rubber or plastic
(vii) Espadrille
(viii) Field (Football/Soccer/Astroturf) shoe
(ix) Hiking boot
(x) Inner liner
(xi) Jogger/Training shoe
(xii) Kung-Fu shoe
(xiii) Moccasin/Soled moccasin
(xiv) Oxford
(xv) Popsicle
(xvi) Pump
(xvii) Rubber/Plastic Protective and Waterproof footwear
(xviii) Rubber/Plastic Ski boot
(xix) Slipper
(xx) Slipper sock
(xxi) Spiked Track shoe
(xxii) Tennis shoe
(xxiii) Workboot
(xxiv) Woven bootie
(xxv) Zori
(xxvi) Other (specify)

(4) Component materials of upper with value percentage of each component. If chief value of upper is fiber, and weight of entire shoe is neither 50 percent fiber and/or rubber or plastic nor over 10 percent rubber or plastic, state the percentage by weight and value of each fiber used in the upper.

(5) Component materials of entire article with value percentage of each component. If the materials in (4) and (5) are primarily of leather, answer only (8) and (12). Otherwise answer all questions.

(6) Component materials of sole with value percentage of each component.

(7) Percentage of weight of entire article:
(i) Fiber
(ii) Rubber and/or plastic
(iii) Other (specify material)

(8) Percentage of exterior surface area of the upper:
(I) Leather
(II) Rubber and/or plastic
(III) Other (Specify material)

(9) Is there a foxing or foxing-like band around bottom of upper? If so, specify component materials of the band.

(10) Does the sole overlap the upper? If so, specify the part(s) of the upper overlapped.

(11) Does the upper extend over the ankle?

(12) Type of construction:
(i) Stitched-Turned
(ii) Stitched-Goodyear Welt
(iii) Stitched-Welt other than Goodyear
(iv) Stitched-Slip-lasted (California)
(v) Stitched-Other (specify method)
(vi) Exclusively Adhesive (Cement)
(vii) Shell molded bottom cemented and/or stitched to upper
(viii) Unit molded bottom cemented to upper
(ix) Rolled Sole
(x) Sole simultaneously molded and attached to upper (Simultaneous Injection)
(xi) Vulcanized
(xii) Riveted, Nailed or Stapled
(xiii) Unsoled Moccasin
(xiv) Combination of the above (specify types combined)
(xv) Other (specify)

(13) Is the shoe of the slip-on type, *i.e.*, no laces, buckles or other fasteners?

(14) Does the upper have either an open toe or an open heel?

Customs Form 5523 may be used to furnish the additional information required above.

Definitions. For the purposes of this section, the following terms will have the meaning indicated when used in the classification of footwear:

(a) *Turned.* "Turned" means that construction in which the upper is sewn to the outsole while the shoe is turned inside out.

(b) *Material in chief value.* "Material in chief value" means that material which, including cost of all fabrication and improvement prior to act of assembly of shoe, is of higher cost than any other single material used in that section of the shoe which is specified in the question.

(c) *Upper.* "Upper" means everything above insole level.

(d) *Fiber.* "Fiber" means a material made up of threads or monofilaments, *e.g.*, cloth or jute. Note: cork, wood, and carboard are not fibers.

(e) *Welt.* "Welt" means a separate strip between sole and upper which is sewn to both sole and a lip on the innersole.

(f) *Cement footwear.* "Cement footwear" means footwear in which the outsole (or midsole, if any) is attached to the upper by adhesive without sewing. Does not include footwear having vulcanized soles or injection molded shoes.

(g) *Boots.* "Boots" means footwear designed to be worn next to the sock rather than over the shoe.

Approved: April 6, 1984.

William von Raab,
Commissioner of Customs.

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

[FR Doc. 84-11683 Filed 4-30-84; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436, 440, 442, 444, 446, 448, 450, 452, and 455

[Docket No. 83N-0301]

Clarification of Potency Standards for Certain Antibiotic Drugs; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to June 1, 1984, the comment period for the proposed rulemaking to amend the antibiotic regulations to clarify the potency standards for certain antibiotic drugs. FDA is taking this action in response to a request for an extension of the comment period.

DATE: Comments by June 1, 1984.

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

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (formerly National Center for Drugs and Biologics) (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 201-443-4290.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 2, 1983 (48 FR 54364), corrected December 22, 1983 (48 FR 56603) and December 27, 1983 (48 FR 56965), FDA issued a proposed rule to amend the antibiotic drug regulations to clarify the potency standards for certain antibiotic drugs (21 CFR Parts 436, 440, 442, 444, 446, 448, 450, 452, and 455). The effect of the proposed amendments would be to revise certain antibiotic drug regulations (monographs) so as to clarify that the potency standard stated as micrograms or units per milligram (in addition to the potency standard stated in terms of minimum and, in some cases, maximum percentages of the number of milligrams per container) applies to a bulk drug packaged for dispensing.

The proposal gave interested persons and opportunity to submit written comments by January 31, 1984. It also announced that interested persons could submit a request by January 3, 1984, for an informal conference on the proposal, and that, if a conference were granted,

an extension of the comment period would be provided.

In response to the proposal, Beecham Laboratories requested that an informal conference be held on the proposal. In the **Federal Register** of March 6, 1984 (49 FR 8260), FDA issued a notice of informal conference and extension of comment period. The notice announced that an informal conference would be held on April 2, 1984, and extended the period for submission of written comments to May 2, 1984.

On April 17, 1984, FDA received from Beecham Laboratories a request for a 30-day extension of the comment period. Beecham states that it is now compiling the data and information requested by the agency at the informal conference but will be unable to complete a comprehensive and detailed response in the comment period specified in the notice.

Beecham also stated that the delay in the availability of the written transcript of the informal conference has decreased the tme for a sufficient review of information presented at the informal conference and to prepare and submit written comments.

FDA has carefully considered the request. The agency has determined that additional time for the preparation and submission of meaningful information and data is in the public interest. Accordingly, the comment period for submissions by any interested person is extended to June 1, 1984.

Interested persons may, on or before June 1, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 25, 1984.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 84-11631 Filed 4-26-84; 10:46 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 221

[DoD Directive 2140.2]

Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule will incorporate recommendations made in a Committee on Government Operations Report, H.R. No. 97-241. This proposed rule provides specific guidance to all Heads of DoD Components on the recoupment of nonrecurring costs when products or technology developed with appropriated funds are sold commercially or through the Foreign Military Sales program. Recoupment charges will be made whenever the Department of Defense has incurred $2 million or more of nonrecurring costs in developing an item or technology, unless a written waiver has been obtained from appropriate DoD officials. The rule contains necessary instructions for preparation and submission of waiver requests.

DATE: Written comments must be received by May 9, 1984.

ADDRESS: Office of the Assistant Secretary of Defense, (Comptroller), ATTN: Director for Policy Promulgation, The Pentagon, Room 3A882, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Melburn, 202-697-3135.

SUPPLEMENTARY INFORMATION: DoD procurement activities develop contractual language to implement the nonrecurring cost recoupment policies that are incorporated into acquisition regulations, which are also published in the **Federal Register** for public comment. The term, "acquisition regulation," refers to the Defense Acquisition Regulation, the Federal Acquisition Regulation (FAR), and the DoD FAR Supplement.

Executive Order 12291

The Department of Defense has determined that this proposed rule is not a major rule, because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements beyond internal DoD use.

Regulatory Flexibility Act of 1980

The Assistant Secretary of Defense (Comptroller) certifies that this rule, if promulgated, shall be exempt from the requirements under 5 U.S.C. 601-612. In addition, this rule does not have a significant economic impact on small entities as defined in the Act.

List of Subjects in 32 CFR Part 221

Foreign military sales, Foreign trade, Armed forces.

Accordingly, it is proposed that 32 CFR be amended by adding a new Part 221, reading as follows:

PART 221—RECOUPMENT OF NONRECURRING COSTS ON SALES OF U.S. PRODUCTS AND TECHNOLOGY

Sec.

221.1 Purpose.
221.2 Applicability and Scope.
221.3 Definitions.
221.4 Policy.
221.5 Responsibilities.
221.6 Procedures.
221.7 Waivers (Including Reductions).
221.8 Information Requirements.

Authority: Title 10, United States Code.

§ 221.1 Purpose.

This proposed rule establishes policy to conform with the Arms Export Control Act as amended, and the Council on Interntional Economic Policy Decision Memorandum No. 23 for calculating and assessing nonrecurring cost (NC) recoupment charges on sales of defense articles or technology to non-U.S. government customers; and assigns responsibilities, and prescribes procedures.

§ 221.2 Applicability and scope.

(a) This rule applies to the Office of the Securetary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Its provisions shall be applied contractually to corporations and private parties who sell defense articles or technology developed with DoD appropriations or funds (and in special cases, customer funds) or use such technology to manufacture items sold commercially to a foreign government, international organization, foreign commercial firm, or domestic organization.

§ 221.3 Definitions.

(a) *Major Defense Equipment.* Any item of equipment on the United States Munitions List having a nonrecurring RDT&E cost of more than $50 million or a total production cost of more than $200 million.

(b) *Government Sale.* A sale of articles or services, or both, to customers by and DoD Component under authority of appropriate legislative acts.

(c) *Direct Sale.* A commercial sale to a customer by a defense contractor of products, technology, material, services, or development or production techniques that were originally

developed, improved, or produced using DoD approriations or funds.

(d) *Domestic Organization.* Any U.S. nongovernmental organization or private commercial firm.

(e) *Technology.* Information of any kind that can be used or adapted for use in the design, production, manufacture, utilization or reconstruction of articles or materiel. The data may take a tangible form, such as a scale model, prototype, blueprint or an operating manual, or may take an intangible form, such as technical advice.

(f) *Nonrecurring Research, Development, Test and Evaluation (RDT&E) costs.* Those costs funded by an RDT&E appropriation to develop or improve the product or technology under consideration either through contract or in-house effort. This includes costs of any engineering change proposal initiated before the date of the contract with the customer as well as projections of such costs to the extent additional effort applicable to the sale model or technology is necessary or planned. It *does not* include costs funded by either procurement or operations and maintenance appropriations.

(g) *Nonrecurring Production Costs.* Those one-time costs incurred in support or previous production of the model specified and those costs specifically incurred in support of the total projected production run. These nonrecurring costs include DoD expenditures for preproduction engineering, rate and special tooling, special test equipment, production engineering, product improvement, destructive testing, and pilot model production, testing and evaluation. Non-recurring production costs do not include DoD expenditures for machine tools, capital equipment or facilities for which contractor rental payments are made in accordance with the DAR or asset use charges assessed in accordance with DoD 7290.3–M.

(h) *"Special" RDT&E and Nonrecurring Production Costs.* Those costs incurred at the request of, or for the benefit of, the customer in developing a special feature or unique requirement. These costs must be paid by the customer as they are incurred.

(i) *Pro Rata Recovery of Nonrecurring Costs.* Distribution (proration) of a pool to a specific number of units that benefit from the investment so that a DoD Component will collect from a customer a fair (prorata) share of the investment in the product being sold.

(j) *A Cost Pool.* Represents the total cost to be distributed across the specific number of units. The nonrecurring RDT&E cost pool comprises the costs described in § 221.3(f). The nonrecurring production cost pool comprises costs described in § 221.3(g).

(k) *Foreign Military Sale (FMS).* A sale of defense articles or defense services to a foreign government or international organization under authority of the Arms Export Control Act.

(l) *Model.* A basic alpha-numeric designation within a weapon system series, such as a ship hull series, an equipment or system series, an airframe series, or a vehicle series. For example, the F5A and the F5F are different models within the same F–5 system series.

(m) *Non-U.S. Contractor.* A non-U.S. citizen or an organization which is not incorporated in the U.S.

§ 221.4 Policy.

Non-U.S. Government purchasers shall pay a fair price, determined in accordance with this rule, for the values of the DoD nonrecurring investment in the development and production of defense articles and development of technology unless an NC recoupment charge waiver has been approved by the DoD official designated in § 221.7. Approved revised NC recoupment charges may not be applied retroactively to accepted FMS agreements or to direct sales that were entered into before the date of approval of the revised NC recoupment charge.

§ 221.5 Responsibilities.

(a) The *Under Secretary of Defense for Research and Engineering* (USDR&E) shall monitor and exercise control over NC recoupment aspect of domestic commercial sales of defense articles and technology and shall take appropriate action to revise the Defense Acquisition Regulation (DAR) to agree with this Rule.

(b) The *Under Secretary of Defense for Policy* shall monitor the application of this Directive and exercise control over foreign sales of DoD-developed articles and technology.

(c) The *Assistant Secretary of Defense (Comptroller)* shall provide necessary cost accounting guidance and publish a listing of the items or technology to which NC recoupment charges are applicable.

(d) The *Director, Defense Security Assistance Agency (DSAA),* shall serve as the DoD focal point for review and approval of NC recoupment charges for major defense equipment (MDE) items and for processing NC recoupment charge waiver requests received from foreign countries and international organizations for foreign military sales (FMS) or direct commercial sales. Approved NC recoupment charges for MDE items shall be provided to the Deputy Assistant Secretary of Defense (Management Systems) (DASD(MS)) for publication.

(e) Heads of *Military Departments and Defense Agencies* shall determine the DoD nonrecurring investment in defense articles or technology and perform required pro rata calculations in accordance with cost accounting guidance from the ASD(C); provide recommended charges for MDE items to DSAA; determine the appropriate charges for non-MDE articles and technology; provide the approved non-MDE item and technology charges to the DASD(MS) for publication and submit quarterly reports of anticipated and actual NC recoupment charge collections to DSAA.

§ 221.6 Procedures.

(a) *General.* (1) Each DoD Component and defense contractor negotiating the sale of products or technology developed with DoD appropriations or funds shall ensure the assessment of the charges as set forth in this paragraph.

(2) Each DoD Component shall calculate a NC recoupment charge for items or technology releasable to foreign countries and international organizations when FMS or direct commercial sales are anticipated. The NC recoupment charge shall be based upon information recorded in DoD accounting records or DoD budget justification documents. Engineering cost estimates may be used to determine NC expected to be incurred in periods not covered by budget justification documents.

(3) The NC recoupment charge computation (nonrecurring RDT&E and production) for the sale of MDE items shall be submitted to the Director, DSAA, for approval of the amount to be applied to pending FMS or direct sales. A summary report on each MDE item shall be provided to DSAA. The Director, DSAA, shall review each DoD Component's calculations and provide approved NC recoupment charges for MDE items to the DoD Component. A copy of all approvals shall be provided to the DASD(MS) for publishing in DoD 7290.3–M.

(4) Once the approved charge has been used in an authorized sale, the charge normally will not be revised until a model change occurs. However, each DoD Component annually shall review approved MDE charges to determine if there have been significant changes in factors or assumptions used to compute the original NC recoupment charge established for a model (for example, significant changes in identifiable

RDT&E costs or the anticipated production run). A significant change occurs when a new calculation shows a change of more than 30 percent of the current system NC recoupment charge for an MDE item or the potential for an additional NC recoupment charge collection of over $100,000 exists. When significant changes are identified for MDE, the DoD Component shall submit a request to the Director, DSAA, for authority to make appropriate changes in NC recoupment charges. The Director, DSAA, shall respond to the request in writing within 60 days after receipt of the request.

(5) When a defense contractor negotiates the direct sale of a defense article or technology, or a derivative of a USG developed item, he shall request the amount of the NC recoupment charge from the administrative contracting officer (ACO) or (for technology sales) the technology charge from the DoD Component responsible for DoD acquisition of the article. When making this request, the contractor shall submit such information as may be necessary to comply with this rule. If the NC recoupment charge has not already been established as provided for under this rule, the ACO shall contact the DoD Component activity responsible for establishment of the charge and advise the contractor of the estimated date the amount of the charge will be made available.

(6) All DoD contracts for RDT&E or acquisitions shall include a mandatory clause that requires the contractor to pay the USG, within 30 days following delivery of each item from the contractor's facility, the established NC recoupment charge for any domestic or international direct sale, corporation, or licensed production of defense articles or technology (see DAR 7-104.64).

(7) The cognizant DoD Component shall deposit collections in payment of an NC recoupment charge without delay in the nearest federal reserve bank to accounts prescribed in DoD 7290.3-M. Notification of the deposit shall be provided to the DoD Component activity responsbile for submission of reports required in § 221.6(g)(2).

(b) *Calculation of Charges on MDE and Components.*—MDE items are defined in § 221.3(a). The determination of whether an item meets the MDE dollar threshold shall be based on obligations recorded to the date the equipment is offered for sale. Production costs shall include cost incurred for DoD, FMS, and known direct sales production. For the FMS program, the sales offer date shall be the date a Letter of Offer and Acceptance (LOA) is signed by a U.S. official and released to the FMS customer; for commercial sales, the sales offer date shall be the date of contract signature.

(1) NC recoupment charges shall be assessed on a pro rata basis. The charges shall be established by dividing the total of NC investment (nonrecurring RDT&E + nonrecurring production) incurred to date plus projections of future costs to be incurrred, by the total estimated number of units projected to be produced over the life of the system (including DoD requirements, Military Assistance Program (MAP) requirements, FMS requirements, and direct commercial sales requirements). The computation of the cost pool shall exclude costs for those items which are restricted to U.S. Government use only (for example, U.S.-unique nuclear devices, countermeasures, security devices and aircraft carrier-unique adaptations).

(2) The number of units to be produced for the Department of Defense shall be obtained from budget backup data. FMS quantity projections and direct commercial sales quantity projections shall be derived jointly as best estimates by the Military Department and DSAA. Defense contractors shall be consulted in determining direct commercial sales quantities, if necessary. In the case of disagreement on estimated FMS and direct commercial quantities and sales projections, the Director, DSAA, will make the final determination in coordination with the ASD(C) and the USDR&E.

(3) For a weapon system that includes more than one component which meets the MDE threshold or contains a component that has application to several weapons systems or a commercial sale potential (hereafter referred to as a major individual component), a "building block" approach (that is, the sum of NC recoupment charges for individual components) shall be used to determine the NC recoupment charge for the sale of the entire system. Data must be accumulated for each major component when NC is identified in accounting records or budget documents *and* when the component has application to more than one weapon system or a potential for individual FMS or direct commercial sales. The sum of the various component NC recoupment charges and any remaining NC for the weapon system shall be applied to the sale of a complete system. Individual NC recoupment charges shall be applied to sales of individual components. DoD Components involved with a sale shall ensure that components are not purchased separately for ultimate assembly as an end item in an attempt to circumvent this rule.

(4) The established NC recoupment charge shall be included in the FMS unit price or, for commercial sales, provided to the seller, and paid by the seller to the USG.

(5) If a commercial item being sold is substantially different (less than 90 percent common) from the USG item for which the NC recoupment charge was developed, the charge shall be assessed based on the extent of commonality with the USG item. For example, if the commercial item is 25 percent common with the DoD item, only 25 percent of the established NC recoupment charge for the DoD item shall be assessed. The DoD Component office with system engineering responsibility for the item shall be responsible for determining the degree of such commonality. The contractors shall be advised in writing of the NC recoupment charge for derived items. A copy of the notification shall be provided to the Director, DSAA.

(6) If records necessary to enable a pro rata NC calculation have been lost or destroyed for particular MDE items in which the USG has an NC investment, the head of the DoD Component concerned, or designee at the level of Assistant Secretary or higher, shall certify that the records have been lost or destroyed and shall determine a unit NC recoupment charge equal to 4 percent of the most recent USG contract price. The certification of lost or destroyed documents and recommend fixed charge per unit shall be forwarded to the Director, DSAA, for approval. The Director, DSAA, then shall establish a fixed unit NC recoupement charge for all subsequent sales.

(c) *Calculation of Charges on Nonmajor Defense Equipment*—(1) *End Items.* A percentage NC recoupment charge shall be assessed on non-MDE end items whenever $2 million of RDT&E funded cost has been or is expected to be incurred on the item. The applicable surcharge shall be 5 percent of the item's current FMS selling price exclusive of NC recoupment charges for items sold under the FMS program or sold commercially by U.S. contractors. The DoD Components shall establish a unit NC recoupment charge for all subsequent sales and the unit charge shall be published in DoD 7290.3-M.

(2) *Modification Kits*—(i) *Developed to provide an end item with new or improved capability.* An NC percentage charge shall be made whenever $2 million of RDT&E, procurement or operation and maintenance funds have been expended on engineering, development, or testing of the kit. The

applicable surcharge shall be 5 percent of the modification kit's selling price for kits transferred under the FMS program or sold commercially by U.S. contractors.

(ii) *Developed to improve the safety, reliability, availability, and maintainability.* The cost of programs designed to improve the safety, reliability, availability and maintainability for the projected life of the equipment shall be included in the end item/major component NC pools. If an FMS customer funds part of the development cost through a Component Improvement Program (CIP) or comparable program, a pricing exception for an appropriate adjustment of the established NC recoupment charge may be requested by a DoD Component. Modification kits developed to improve safety, reliability, availability, and maintainability are issued to FMS customers or incorporated into end items/major components without an additional NC recoupment charge because the applicable development cost is either included in the end item/major component NC recoupment charge or recouped as CIP or comparable program charges in the end item or major component.

(3) *Components of non-MDE items.* A percentage NC recoupment charge shall be made on any non-MDE item component whenever $2 million of RDT&E appropriations has been or is expected to be expended on the component. The applicable charge shall be 5 percent of the component's current FMS selling price for parts transferred under the FMS program or sold commercially by a U.S. contractor.

(d) *Calculation of Charges for Technology Sales.* This paragraph establishes procedures for calculation of charges after receipt of authorization to release technology.

(1) *Technical data packages.* (i) An NC recoupment charge shall be assessed for the transfer and use of Technical Data Packages (TDPs) to be used to manufacture or produce items for non-U.S. Government use. Charges for the use of TDPs normally are referred to as royalty fees. However, for MDE items, the approved MDE NC recoupment charge shall be assessed for each item manufactured or coproduced instead of a royalty fee.

(ii) For a non-MDE item an NC percentage surcharge shall be applied as the royalty fee on the basis of the item's current FMS selling price. Prescribed charges for non-MDE items are as follows:

(A) Foreign Governments. Five percent on items manufactured for in-country use and eight percent on items manufactured for third party use by or on behalf of foreign governments or international organizations.

(B) U.S. Contractors. Three percent on items manufactured for consumption in the U.S. and five percent on items manufactured for export.

(iii) The above charges will be considered to constitute the "fair market price" for U.S. technology.

(iv) A TDP developed with USG funds may not be released to any non-USG parties, including contractors, unless the recipient has agreed in writing to pay the applicable charges prescribed by this rule.

(2) *Software.* A charge shall be made for sales of USG-developed software whenever $2 million or more has been, or is expected to be, expended by the DoD Component to develop the software, regardless of appropriation account. The charge shall be a pro rata charge. The numerator shall be the cost incurred by the DoD Component. The denominator shall be either the number of weapons systems to be supported by the software package or the number of software packages to be duplicated, as applicable.

(3) *Other Technology Transfers.* For all other technology transfers, including transfers of TDPs for purposes other than manufacturing and all transfers of industrial or manufacturing processes, the amount of the charge shall equal the fair market value of the technology involved. For transfers to any U.S. domestic organization this charge shall be the lower of either: (i) a proportionate share of the DoD investment cost identified to the development of the technical data or technology involved; or (ii) a fair market price for the technology or technical data involved based on demand or the potential monetary return on investment. For transfers to any non-U.S. contractor or other foreign customer, this charge will be the greater of the foregoing two alternatives. Accordingly, the lower domestic price shall be applied only if the prospective domestic purchaser signs a written commitment to the Department of Defense that the technology or technical data will not be transferred to any other party.

(e) *Joint DoD Component Development Effort.* DSAA shall designate a lead DoD Component to perform a consolidated calculation when appropriations of more than one DoD Component are involved in the NC investment in an MDE item.

(f) *"Special" RDT&E and Nonrecurring Production Costs.* (1) The full amount of "special" RDT&E and nonrecurring production costs incurred for the benefit of a particular customer or customers shall be paid by that customer or customers. However, when a later purchaser requests the same specialized features which resulted from the added special RDT&E and nonrecurring production costs, a pro rata share of these costs may be paid by the later purchaser and transferred to the original customer, provided those special nonrecurring costs exceed $5 million. Such reimbursements shall not be transferred to the original customer if 8 years have elapsed since acceptance of DD Form 1513 by the original customer. The USG shall not be charged any NC recoupment charge if it adopts the features for its own use or provides equipment containing such features under a U.S. Grant Aid or similar program.

(2) For coproduction or codevelopment/cooperative development or cooperative production agreements, the policy set forth in this rule generally shall determine the allocation basis for recouping from the third party purchasers the investment costs of the participants. Such agreements shall provide for the application of the policies in this rule to sales to third parties by any of the parties to the agreement and for the distribution of recoupments and technology charges among the parties to the agreement.

(g) *Reporting NC Recoupment Collections.* (1) Funds collected for NC recoupment charges shall be disposed of in accordance with DoD 7290.3–M.

(2) Components shall maintain records of anticipated and actual NC recoupment charge collections for each FMS case and commercial contract. Commercial contracts may be consolidated and reported under a control number if such a grouping is considered cost effective. A quarterly report on the status of NC collections shall be forwarded to the DSAA Comptroller with a copy to the Director for Accounting Policy, Office of the Deputy Assistant Secretary of Defense (Management Systems) Office of the ASD(C), 45 days following the close of each quarter.

§ 221.7 Waivers (Including Reductions).

(a) The Arms Export Control Act requires the recoupment of NCs of MDE from FMS customers but authorizes consideration of waivers for particular sales that, if made, significantly advance U.S. Government (USG) interests in the North Atlantic Treaty Organization, Japan, or Australia. Waiver for non-MDE items under FMS and for direct

commercial sales shall be based upon the same considerations.

(b) Requests for waivers of NC recoupment charges for sales of defense articles under the FMS program or on direct commercial sales to foreign governments and international organizations shall be submitted to the Director, DSAA. Requests shall originate with the foreign government and shall provide information regarding the extent of standardization to be derived as a result of the waiver and other benefits which would accrue to the USG as a result of the sale. The request shall contain a summary statement of the facts regarding the program, benefits expected and justification therefor, and any calculations necessary to determine that the waiver has resulted in a reduction of contract price. Blanket waiver requests may not be submitted nor considered. The term "blank waiver" refers to an NC recoupment charge waiver for all sales to a particular country or all sales of a weapon system. A waiver request may not be approved for a sale that was accepted without an NC recoupment charge waiver, unless the waiver was pending at the time of acceptance. A waiver may not be granted in connection with a direct commercial sale if such a waver could not have been legally granted in connection with a sale made under the FMS program.

(c) Requests for waivers of NC recoupment charges for domestic sales of defense articles shall be submitted by the contractor to the USDR&E. The request shall provide information regarding the dollar value of the waiver, benefit to be derived by the Department of Defense, the names of foreign and domestic competitors, impact on the USG balance of payments, demonstrable rights of the manufacturer or purchaser, and any other justification for the waiver.

(d) Requests for waivers shall be processed expeditiously, and a decision made by the approving authority (see § 221.7(f)) either to approve or disapprove the request within 60 days after receipt. A waiver in whole or in part of the recoupment charge shall be provided in writing to the DoD Component concerned before issuance of the FMS agreement or signing of the direct sale commercial contract.

(e) The approving authority shall request the concurrence of the Director, DSAA; the ASD(C); and the USDR&E, as appropriate, in his or her decision. If an issue concerning the waiver request cannot be resolved, the approving authority shall refer the waiver request to the Deputy Secretary of Defense for final determination. The action memorandum to the Deputy Secretary of Defense shall be coordinated with the Director, DSAA, the ASD(C) and the USDR&E, as appropriate.

(f) The Director, DSAA, is the approving authority and shall state in writing any approvals granted for waivers associated with FMS and direct foreign sales. The USDR&E is the approving authority and shall state in writing any approvals granted for waivers involving sales of defense articles or technology to domestic organizations. This authority shall not be redelegated. A copy of each approved waiver shall be forwarded to the ASD(C) and to the concerned DoD Components by the approving authority.

(g) This rule does not apply to sales of excess property when accountability has been transferred to property disposal activities and the property is sold in open competition to the highest bidder.

§ 221.8 Information requirements.

The recordkeeping and reporting requirements prescribed in § 221.6(g)(2) are assigned Report Control Symbol DSAA(Q)1112.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 26, 1984.

[FR Doc. 84-11353 Filed 4-30-84; 8:45 am]

BILLING CODE 3810-01-M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1699

Enforcement of Nondiscrimination on the Basis of Handicap in Selective Service System Programs

AGENCY: Selective Service System.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Selective Service System.

DATES: To be assured of consideration, comments must be in writing and must be received on or before August 28, 1984. Comments should refer to specific sections in the regulation.

ADDRESSES: Comments should be sent to: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435.

Comments received will be available for public inspection in Office of the General Counsel, Selective Service System, 1023 31st Street, NW., Washington, D.C. 20435. Copies of this notice are available on tape for those with impaired vision. They may be obtained at the above address.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435. Phone 202–724–1167. TDD Phone 202–724–0408.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Selective Service System. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95–602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

> No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*
>
> (29 U.S.C. 794) (amendment italicized).

The substantive nondiscrimination obligations of the agency, as set forth in this proposed rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies on April 15, 1983.

This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 29867, 3 CFR, 1978 Comp., p. 206).

It is not a major rule within the meaning of Executive Order 12291 46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section-by-Section Analysis

Section 1699.101. Purpose.

Section 1699.101 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 1699.102 Application.

The proposed regulation applies to all programs or activities conducted by the agency.

Section 1699.103 Definitions.

"Agency." For purposes of this regulation "agency" means the Selective Service System.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 1699.160(a)(1), they may also be necessary to meet other requirements of the regulation.

"Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a compliant *(see* § 1699.170(d)).

" Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The term "facility" is used in section 150 and section 170(f).

"Handicapped person." The definition of "handicapped person" is a shortened version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31). In the interest of brevity, examples of handicapping conditions appearing under the term "physical or mental impairment" are deleted.

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979).

In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

We encourage comment on paragraph (2). The language we have proposed comes directly form the Supreme Court's interpretation of section 504. However, so long as the definition of "qualified handicapped person" remains faithful to the statute and current case law, we are receptive to alternative language.

For programs or activities that do not fall under the first paragraph, paragraph (2) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 1699.110 Self-evaluation.

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The process shall include consultation with interested persons, including consultation with handicapped persons or organizations representing handicapped persons. *The Department of Justice is considering whether and to what degree the Federal Advisory Committee Act (5 U.S.C. app.) is applicable to the proposed consultation*

requirement. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

Section 1699.111 Notice.

Section 1699.111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 1699.130 General prohibitions against discrimination.

Section 1699.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination manddate of section 504. The remaining paragraphs in § 1699.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in 1699.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question.

Section 504, however, prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ 1699.150–1699.151) and communications (§ 1699.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 1699.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Section 1699.140 Employment.

Section 1699.140 prohibits discrimination on the basis of handicap in employment by Executive agencies. This regulation is in accord with a recent decision of the Fifth Circuit that holds that, despite the resulting overlap of coverage with section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), Congress intended section 504 to cover the employment practices of Executive agencies. The court also held that in order to give effect to both section 504 and section 501, the administrative procedures of section 501 must be followed in processing section 504 complaints. *Prewitt v. United States Postal Service,* 662 F. 2d 292 (5th Cir. 1981). Consistent with that decision, this section provides that the standards, requirements and procedures of Section 501 of the Rehabilitation Act, as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613, shall be those applicable to Federally conducted programs with respect to employment practices. In addition to this section, § 1699.170(b) of this regulation specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1978 Comp. p. 206). Under this authority, the EEOC establishes governmentwide standards on nondiscrimination in employment on the basis of handicap.

Section 1699.149 Program accessibility: Discrimination prohibited.

Section 1699.149 States the general nondiscrimination principle underlying the program accessibility requirements of sections 1699.150 and 1699.151.

Section 1699.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.56–41.58), with certain modifications. Thus, § 1699.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ 1699.150(a)(1)). However, § 1699.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure programs accessibility (§ 1699.150(a)(2)).

Paragraph (a)(2) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 1699.160(e). This provision is based on the Supreme Court's holding in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico v. Goldschmidt*, 687, F.2d 644 (2d Cir. 1982); *American Public Transit Association v. Lewis* (*APTA*), 655 F.2d 1272 (D.C. Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(2) is an effort to conform the agency's regulation implementing section 504 to the Supreme Court's interpretation of the statute in *Davis* as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. The failure to include such a provision could lead to judicial invalidation of the regulation or reversal of particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § 1699.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and adminstrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 1699.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 1699.170.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days. The Department of Justice is considering whether and to what degree the Federal Advisory Committee Act (5 U.S.C. app.) is applicable to the proposed consultation requirement included in § 1699.150(d).

Section 1699.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 1699.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101—19.600 to 101–19.607 (1982). This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required to meet the new contruction standard. They are subject, however, to the requirements of § 1699.150.

Section 1699.160 Communications.

Section 1699.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 1699.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for handicapped persons to request the auxiliary aids of their choice.This expressed choice shall be given primary consideration by the agency (§ 1699.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 1699.160(e). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble § 1699.150(a)(2)). Unless not required by § 1699.160(e), the agency shall provide auxiliary aids at no cost to the handicapped person.

It is our view that compliance with § 1699.160 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 1699.160 would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 1699.170.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to make clear to the public: (1) The communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ 1699.160(a)(1)(ii)). For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Paragraph (d) requires the agency to take appropriate steps to ensure that information regarding section 504 rights and protections that is supplied to employees, applicants, participants, beneficiaries, and other interested persons under § 1699.111 is effectively communicated to handicapped persons.

Section 1699.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of theRehabilitation Act of 1973 (29 U.S.C. 791).

The agency is required to accept and investigate all complete complaints (§ 1699.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal goverment (§ 1699.170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act of section 502 was designed, constructed, or altered in a manner that does not provide ready access and use to handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 1699.170(g)). One appeal within the agency shall be provided (§ 1699.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 1699.170(i)).

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 32 CFR Part 1699

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

For the reasons set forth in the preamble, 32 CFR Chapter XVI Selective Service System of the Code of Federal Regulations is proposed to be amended as follows:

Dated: April 26,1984.

Thomas K. Turnage,

Director of Selective Service.

Part 1699 is added to read as follows:

PART 1699—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY SELECTIVE SERVICE SYSTEM

Sec.

1699.101 Purpose.
1699.102 Application.

Sec.
1699.103 Definitions.
1699.104–1699.109 [Reserved]
1699.110 Self-evaluation.
1699.111 Notice.
1699.112–1699.129 [Reserved]
1699.130 General prohibitions against discrimination.
1699.139 [Reserved]
1699.140 Employment.
1699.141–1699.148 [Reserved]
1699.149 Program accessibility: Discrimination prohibited.
1699.150 Program accessibility: Existing facilities.
1699.151 Program accessibility: New construction and alterations.
1699.152–1699.159 [Reserved]
1699.160 Communications.
1699.161–1699.169 [Reserved]
1699.170 Compliance procedures.
1699.171–1699.999 [Reserved]

Authority: 29 U.S.C. 794.

§ 1699.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 1669.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 1699.103 Definitions.

For purposes of this part, the term—

"Agency" means Selective Service System.

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but it treated by the agency as having such an impairment.

"Qualified handicapped person" means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that would result in a fundamental alteration in its nature; and

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§1699.104–1699.109 [Reserved]

§ 1699.110 Self-evaluation.

(a) The agency shall, within one year of the effective date of this part, evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall, for a least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection—

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and.

(3) A description of any modifications made.

§ 1699.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested

persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§ 1699.112–1699.129 [Reserved]

§ 1699.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual licensing, or other arrangements, on the basis of handicap—

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclud handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons form the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 1699.131–1699.139 [Reserved]

§ 1699.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to descrimination in employment under any program or activity conducted by the agency. The definitions, requirements and procedures of Section 501 of the Rehabilitation Act of 1973 [29 U.S.C. 791], as established in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ 1699.141–1699.148 [Reserved]

§ 1699.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in §§ 1699–150 and 1699–151, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§1699.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1699/150(a) would result in such alterations or burdens. The decision that compliance would ressult in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended [42 U.S.C. 4151–4157], and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency

shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most intergrated setting appropriate.

(c) *Time Period for compliance.* The agency shall comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested person, including handicapped persons or organizations representing Handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year ofthe transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups with whose assistance the plan was prepared.

§ 1699.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. "The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607 (1982), apply to buildings covered by this section.

§ 1699.152–1699.159 [Reserved]

§ 1699.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necesary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices or a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD's), or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The agency shall take appropriate steps to provide handicapped persons with information regarding their section 504 rights under the agency's programs or activities.

(e) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1699.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would nor result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 1699.161–1699.169 [Reserved]

§ 1699.170 Compliance procedure.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Associates Director for Administration.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible and usable to handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusion of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 1699.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Director of Selective Service.

(j) The agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the agency determines that it needs additional information from the complainant, it shall have 60 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in (g) and (j) above may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§§ 1699.171–1699.999 [Reserved]

[FR Doc. 84–11675 Filed 4–30–84; 8:45 am]
BILLING CODE 6015–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 27 A–2–FRL 2577–4]

Approval and Promulgation of Implementation Plans; New York 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice announces receipt of a submission from New York State of a supplement to its 1982 State Implementation Plan (SIP) for attainment of the ozone and carbon monoxide national ambient air quality standards in the New York City metropolitan area. The supplement was submitted by the State so as to meet the requirements of Part D of the Clean Air Act. This notice proposes to approve the 1982 SIP in its entirety. Proposed action on New York's original submittal of a 1982 SIP was published by the Environmental Protection Agency (EPA) in a February 3, 1983 **Federal Register** notice (48 FR 5139).

EPA is also proposing removal of a condition on its approval of the State's 1979 SIP. This condition, promulgated at 40 CFR 52.1674(f)(2), requires a submittal by the State of an adequate emissions inventory of volatile organic compounds (VOCs) for the New York City metropolitan area.

The State submitted its supplement on February 2, 1984; updated and additional information was submitted on February 7, 15, and 17, 1984. The supplement contains a definition of the area's carbon monoxide air quality problem, a schedule for the systematic analysis of control measures at locations where carbon monoxide is a problem, and a commitment to implement control measures as necessary to attain the national ambient air quality standards for carbon monoxide by December 31, 1987. For ozone, the supplement contains a schedule for the development and implementation of additional measures for the control of VOCs, an updated inventory of VOC emissions, and a revised schedule for the reduction of VOC emissions as necessary to attain the national ambient air quality standard for ozone by December 31, 1987. The supplement also contains a revised demonstration that basic transportation needs are being met, and criteria and procedures for ensuring conformity between the SIP and transportation plans, programs, projects and other federal actions.

DATE: EPA must receive comments on or before July 2, 1984.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 900, New York, New York 10278.

Copies of the proposed revision are available for public inspection during normal business hours at:

Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278.

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233–0001.

New York State Department of Environmental Conservation, Region 1, State University of New York, Building 40, Stony Brook, New York 11790.

New York State Department of Environmental Conservation, Region 2, Two World Trade Center, New York, New York 10047.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Program Branch, Environmental Protection Agency, Region II Office, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

In response to provisions of the 1977 Amendments to the Clean Air Act, on May 16, 1979 the State of New York submitted to the Environmental Protection Agency (EPA) a State Implementation Plan (SIP) revision (the "1979 SIP") designed to continue the State's efforts towards attainment of the ozone and carbon monoxide national ambient air quality standards in the New York portion of the New Jersey—New York—Connecticut Air Quality Control Region (NJ–NY–CT–AQCR or the "New York City metropolitan area"). EPA conditionally approved this revision on May 21, 1980 (45 FR 33981). However, because the State requested and received an extension of up to December 31, 1987 for attainment of the standards, the State was required, under the provisions of the Clean Air Act, to submit another SIP revision by July 1, 1982 ("the "1982 SIP"). Such a 1982 SIP submission (the "1982 submisssions") was made by the State on July 1 and August 2, 1982.

Based upon its review of these 1982 submissions, on February 3, 1983 EPA published a **Federal Register** notice (48 FR 5139) proposing to disapprove the 1982 SIP. The reader is referred to this February 3, 1983 notice for a complete description of New York's 1982 submissions, EPA's review criteria and EPA's findings as a result of its review.

In brief, EPA found that the 1982 submissions did not provide for attainment of the ozone or carbon monoxide standards by December 31, 1987. The SIP also did not include commitments to implement all reasonably available control measures nor did it contain adequate schedules for the evaluation and adoption of such measures. However, also on February 3, 1983, (48 FR 5137), EPA proposed to approve a part of the State's ozone control program. EPA found that several State regulations adequately provided for the implementation of reasonably available control technology (RACT) for certain sources of VOCs covered by EPA Control Technique Guideline (CTG) Group II documents. EPA published final approval of this part of the control program on January 26, 1984 (49 FR 3436).

Specifically, in its February 3, 1983 notice of proposesd disapproval, EPA identified nine elements of the 1982 submissions which were deficient. The additional information needed to address each of these deficiencies is summarized as follows:

Ozone

• Modeling and monitoring—an appropriate identification of the required reduction in emissions of VOCs necessary to attain the ozone standard by December 31, 1987;

• Stationary source controls—the additional development of emission controls representing RACT for the remaining sources of VOCs covered by EPA CTG Group II documents, and a commitment to the implementation of these controls;

• Additional controls—the identification of additional VOC control measures needed for attainment of the ozone standard, including specific schedules for their implementation;

• Transportation controls—a commitment to the adoption of reasonably available transportation control measures;

• Reasonable further progress—a demonstration that reasonable further progress towards attainment of the ozone standard will be made; and

• Attainment demonstration—a demonstration that the ozone standard will be attained by December 31, 1987 through the adoption and implementation of committed control measures.

Carbon Monoxide

• *Carbon monoxide control program*—a commitment to a carbon monoxide control program which provides for attainment and reasonable further progress toward attainment of the carbon monoxide standards at "hotspots," i.e., sites (traffic intersections or corridors) which experience high concentrations of carbon monoxide.

Other Requirements

• *Basic transportation needs*—a commitment to comprehensive public transportation improvement measures as needed to meet basic transportation needs; and

• *Conformity of federal actions*—a commitment to the adoption of criteria and procedures necessary to determine the conformity between the SIP and transportation plans, programs and projects.

On February 2, 1984, the Governor of the State of New York adopted and submitted to EPA a supplement to the 1982 submissions. Updated information was transmitted to EPA by the New York State Department of Environmental Conservation (NYSDEC) on February 7, 1984. Additional information was submitted by NYSDEC on February 15 and 17, 1984. The supplement with the updated and additional information, combined with the previous 1982 submissions, constitute the 1982 SIP.

The February 2, 1984 supplement was prepared to address the deficiencies in the 1982 submissions and is the subject of today's notice. More detailed information concerning EPA's review of the February 2, 1984 supplement is contained in an Addendum to the Technical Support Document prepared for EPA's February 3, 1983 proposal. This document is available for public inspection at the locations identified in the "Addresses" secton of today's notice. The reader may also find interest in a November 2, 1983 **Federal Register** notice (48 FR 50686) in which EPA announced a general policy for correcting deficient SIPs and identified the consequences of EPA disapproval of a SIP.

II. Ozone

A. Overview

This section discusses the major elements of New York's February 2, 1984 supplement as it relates to attainment of the ozone standard. The February 2, 1984 supplement substantially changes the State's 1982 submissions. The February 2, 1984 supplement contains an expanded ozone control program designed to attain the ozone standard by December 31, 1987, a revised VOC emissions inventory, and a revised demonstration of reasonable further progress.

B. Control Measures

1. Introduction

As a result of the February 2, 1984 supplement, the ozone element of the 1982 SIP, in its entirety, is now comprised of an "existing control program" (summarized in Section II.B.2.a. of today's notice), "new RACT measures" and "extraordinary" measures. In combination, these strategies are projected to produce by December 31, 1987 a reduction in VOC emissions adequate to provide for attainment of the ozone standard. In addition, as described in Section II.B.4. of today's notice, the State has committed to adopt a "contingency measure" if it remains necessary.

Table 1 presents a listing of the measures comprising the ozone control program for the New York City metropolitan area. This table also shows the estimated reduction in VOC emissions that these measures are expected to provide. The schedule for the development and implementation of these measures is contained in Table 2. With the exception of one measure, final compliance will be provided for by December 31, 1987.

TABLE 1.—MEASURES COMPRISING THE OZONE CONTROL PROGRAM FOR THE NEW YORK CITY METROPOLITAN AREA

Control measure	VOC emissions reduction in 1987 from 1980 baseline (tons per year)
Reasonably available control measures:	
Gowth and existing control program [1]	143,660
Subtotal—Existing controls	143,660
New RACT measures:	
Controls at major facilities	377
Gasoline tank truck controls	2,645
Reavaluation of RACT	[2]
Mobile sources:	
Light duty vehicle I/M:	
20% stringency	1,550
30% stringency with 2-speed idle test	2,343
Antitampering	455
Heavy duty gasoline truck I/M	2,000
Transportation measures	626
External floating roof tanks	[2]
Subtotal—New RACT measures	9,996
Extraordinary control measures:	
Stage II gasoline station controls	10,805
New RACT—Small sources	[3] 3,978
Automotive body shop	3,688
Architectural coatings	10,871
Consumer/commercial solvent use	12,774
Subtotal—Extraordinary control measures	42,116
Total emission reduction (without contingency measure)	195,772
Contingency measure:	
Controls on existing dry cleaners (perchloroethylene)	3,947
Total emission reduction (with contingency measure)	199,719
Reduction required for attainment	199,676

[1] This program is summarized in section II.B.2.a. of today's notice.
[2] No reduction is claimed from this measure.
[3] The SIP estimates that this measure will provide an emissions reduction of 4,669 tons by 1989. However, since full compliance with this measure will not be obtained by December 31, 1987, the State has reduced the effectiveness of this measure to 3,978 tons. (See section II.B.3.b. of today's notice).

TABLE 2.—SCHEDULE FOR IMPLEMENTATION OF THE OZONE CONTROL PROGRAM FOR THE NEW YORK CITY METROPOLITAN AREA

Control measure	Begin study	End study	Public hearing	Adopt regulation	Final compliance
Reasonably available control measures: Existing control program [1]	C	C	C	C	12/87
New RACT measures:					
Controls at major facilites	N/A	N/A	7/84	11/84	12/87
Gasoline tank truck controls	C	C	3/84	6/84	4/85
Reevaluation of RACT	C	2/84	N/A	[3] 3/84	[4]

TABLE 2.—SCHEDULE FOR IMPLEMENTATION OF THE OZONE CONTROL PROGRAM FOR THE NEW YORK CITY METROPOLITAN AREA—Continued

Control measure	Begin study	End study	Public hearing	Adopt regulation	Final compliance
Mobile sources:					
Light duty vehicle I/M:					
20% stringency	C	C	C	C	12/84
30% stringency with	10/84	3/85	7/85	10/85	12/86
2-speed idle test	C	4/86	[2] 7/86	10/86	12/87
Antitampering	C	C	N/A	[4] 4/84	6/85
Heavy duty gasoline truck I/M	12/83	4/84	[2] 7/84	[2] 12/84	12/85
Transportation measures	C	C	N/A	N/A	12/87
External floating roof tanks	N/A	N/A	4/84	9/84	U
Extraordinary measures:					
Stage II gasoline station controls	N/A	2/85	4/85	6/85	12/87
New RACT—Small sources	N/A	N/A	7/84	11/84	12/89
Automotive body shop	2/84	1/85	[2] 6/85	1/86	12/87
Architectural coatings	2/84	1/85	[2] 6/85	1/86	12/87
Consumer/commercial solvent use	4/84	7/85	U	7/86	12/87
Contingency measure: Controls on existing dry cleaners (perchloroethylene)	N/A	N/A	10/85	1/86	12/87

[1] This program is summarized in section II.B.2.a. of today's notice.
[2] A program memo requiring the reevaluation of RACT for certain sources will be issued by this date.
[3] Date estimated by EPA based on sechedules contained in the State's Section 105 grant work plan.
[4] Ongoing.

C=Completed milestone.
N/A=Not applicable.
U=Unknown—no schedule provided in SIP.

2. Reasonably Available Control Measures

a. *Existing Control Program.* The 1982 submissions (the part that was approved on January 16, 1984 at 49 FR 3436) and the 1979 SIP contain VOC control measures which will continue to contribute towards attainment of the ozone standard. Such measures include the federal motor vehicle control program, the State's I/M program (i.e., a program designed to operate with an initial vehicle failure rate or "stringency" of 10%), regulations for the control of a majority of the source castegories covered by Group I and II CTG documents, and regulations for the control of other major sources.

b. *New RACT Measures*—i. *Controls at Major Facilities.* The 1982 submissions commit the State to the Control of VOC emissions from major facilities (i.e., those with VOC emissions greater than 100 tons per year). However, in some cases this effort has proven to be less effective than it could have been. This is because, rather than installing RACT at all emission points, some facilities elected to overcontrol at some emission points and apply this excess control against undercontrol at other emission points. (This practice is referred to as "bubbling.") Therefore, for some emission points RACT has not been applied.

Because significant reductions in VOC emissions are needed to attain the ozone standard in the NJ–NY–CT AQCR, the State has committed to restrict the application of bubbles. Sources subject to both Part 228—"Surface Coating Processes" and Part 234—"Graphic Arts" will not be permitted to demonstrate compliance by overcontrol at one emission point and offsetting undercontrol at another when the points are subject to the requirements of these different regulations. This will be accomplished by revising by November 1984 the existing regulations (Part 228 and Part 234) and by negotiating compliance orders with affected sources. It should be noted that it is within the State's prerogative to adopt as restrictive a bubble policy as it deems necessary.

ii. *Gasoline Tank Truck Controls.* Even though EPA had identified gasoline tank trucks as a Group II CTG source category requiring the application of RACT, the 1982 SIP submission did not provide a VOC control measure addressing gasoline tank truck leaks. However, New York State, in coordination with surrounding states, has now committed to the development and implementation of a regulation that represents RACT for this source category. The February 2, 1984 supplement includes an implementation schedule for this effort, which provides for regulation adoption by June 1984.

iii. *Reevaluation of RACT.* Current State VOC regulations (i.e., Parts 223, 226, 228, 229, 233, and 234) provide for the granting of waivers from RACT emission reduction requirements if a source is unable to meet such requirements because of technological or economic hardships. Under provisions of the February 2, 1984 supplement, such waivers will now be reviewed upon renewal of the source's Certificate to Operate in order to determine whether the waiver is still warranted. Because this will be done on an ongoing basis as a part of the State's normal procedures, no regulatory revision is necessary for its implementation.

iv. *Mobile Source Controls*—(a) *Light Duty Vehicle Inspection and Maintenance (I/M).* In its 1979 SIP, the State committed to implement an I/M program for light duty vehicles. This program fully met all of the applicable EPA criteria and was approved.

In its 1982 submissions and in its February 2, 1984 supplement, the State has maintained its commitment to its current I/M program and has committed to several improvements and expansions to it. The 1982 SIP submission called for the State on January 1, 1984 to increase the stringency level of the existing I/M program from 10 to 20 percent. This was effectuated through a revision to Part 217, "Emissions from Motor Vehicles Propelled by Gasoline Engines." In its February 2, 1984 supplement, the State commits to further increase the stringency level of its I/M program, from 20 to 30 percent, on January 1, 1986. Also, on January 1, 1987 the State will institute the use of a two-speed idle test.

(b) *Anti-Tampering.* In its February 2, 1984 supplement, the State commits to inspect light duty vehicles for evidence of tampering with their emission control equipment. The program will begin on July 1, 1984 and will affect all 1984 and later model year light duty vehicles that are currently subject to emission inspection in the New York City metropolitan area. Approximately four million vehicles will have their principal air pollution control equipment examined visually to ensure that no component has been removed or rendered ineffective. The equipment to be examined includes the:

- Catalytic converter,
- Air injection system,
- Evaporative emission control system,
- Exhaust gas recirculation system,
- Air pre-heat system,
- Fuel inlet restricter, and
- PCV valve.

Any equipment found missing or inoperative will have to be repaired or replaced in order for the vehicle to be allowed to operate on public roads. Enforcement will be executed through the sticker and registration mechanism currently used in enforcing the existing I/M program requirements. The State also plans to implement the anti-tampering program throughout New York State, not only in the New York portion of the NJ–NY–CT AQCR.

(c) *Heavy Duty Gasoline Truck I/M.* In its 1982 SIP submission, the State

committee to implement an I/M program for heavy duty gasoline vehicles (HDGV) in the NJ–NY–CT AQCR. This program was to begin in January 1984 if, after study, it was found to be economically feasible. Since the study of the economic feasibility of this program did not begin until December 1983, which was later than originally anticipated, the starting date for the HDGV I/M program has been changed in the State's February 2, 1984 supplement to begin on January 1, 1985.

v. *Transportation Measures.* EPA's February 3, 1983 proposal to disapprove the 1982 submissions was based in part on the absence of a State commitment to implement the reasonably available transportation measures identified in the document. With minor exceptions, the State's February 2, 1984 supplement commits to implementation of the extensive program of transportation control measures contained in Appendices A, B, and C of the 1982 submissions. These control measures replace those contained in the 1979 SIP. The 1982 SIP submission includes State, county, and local commitments to the implementation of the following types of measures:

- Exclusive Bus/Carpool Lanes
- Parking Controls
- Park and Ride/Fringe Parking
- Carpool Programs
- Bicycle Lanes and Storage Facilities
- Alternative Work Schedules
- Traffic Flow Improvements
- Private Car Restrictions
- Freight Transportation
- Land Use Policy and Development
- Exended Vehicle Idling
- Improved Public Transit.

Virtually all of the projects described in the Appendices of the 1982 SIP submission have been retained by the State. An updated list of specific projects is provided in the "Appendix of Ozone Control Measures" which is part of the February 2, 1984 supplement. Since the State now commits to implement those transportation control measures which have been found to be reasonably available, and since the ozone control program in its entirety is adequate to provide for attainment of the ozone standard, appropriate EPA requirements have been met.

vi. *External Floating Roof Tanks.* In its 1982 submissions, the State failed to provide a regulation or a commitment to develop a RACT regulation for the control of VOC emissions from the Group II CTG source category, petroleum liquid storage in external floating roof tanks. The State has now committed to the development and adoption of such a regulation by September 1, 1984.

3. Extraordinary Control Measures

a. *Stage II Gasoline Station Controls.* The State has committed to the adoption by June 1985 of a requirement for the capture of the gasoline vapors which are displaced when automobile gas tanks are refueled (Stage II vapor recovery). The captured vapors are to be returned to the gasoline station's storage tanks for eventual collection through a currently required VOC control system (Stage I vapor recovery).

b. *New RACT—Small Sources.* The 1982 SIP submission requires that VOC sources emitting over ten pounds per hour and subject to Part 212, "Processes and Exhaust and/or Ventilation System," have their environmental rating changed from "D" to "B." A "B" rating requires a greater degree of emission control than does a "D" rating.

In its February 2, 1984 supplement, the State has committed to expand this requirement to include all VOC sources that have an emission rate potential greater than or equal to 3.5 pounds per hour. This measure will also control graphic arts facilities that currently are not controlled by Part 234, "Graphic Arts." Therefore, the measure increases the number of regulated sources. The State has indicated that it will provide for individual waivers from its requirements based on technical or economic hardships. Compliance will occur through New York's existing source recertification process.

Because the February 2, 1984 supplement now contains an implementation schedule for this measure, a deficiency identified by EPA in its February 3, 1983 propsoal has been corrected. However, because of the State's recertification schedule, full compliance by all sources will not be obtained until after December 31, 1987. EPA can only allow credit in the SIP for the emission reductions that will occur through 1987. Therefore, the State has lowered the emission reduction credit which it has claimed for this measure from the 4,669 tons per year in 1989 to 3,978 tons per year in 1987.

The adoption of the revised Part 212 will allow the State to expand coverage of its generic VOC "bubble" program to include the additional sources being covered by the regulation. Currently, the State's generic VOC bubble program is limited by EPA to only those sources which are required to comply with the adopted State regulations in which RACT is specified (i.e., Parts 228 and 234). When a bubble application includes an unregulated source (i.e., before the adoption of this revision to Part 212), the source first has to apply RACT before further reductions can be credited to a bubble. In addition, the bubble must be submitted to EPA as a SIP revision since a specific determination of RACT must be made for the source invovling the calculation of allowable emissions on an individual basis.

c. *Automotive Body Shop.* The State has committed to adopt a regulation by January 1986 to control VOC emissions from automotive body shops. This regulation is intended to reduce VOC emissions from the refinishing of primarily worn or damaged automobiles by requiring paint reformulation (i.e., replacing VOCs with water or replacing high VOC content paint with high solids content paint) and/or the installation of vapor control devices.

d. *Architectural Coatings.* The State has committed in its February 2, 1984 supplement to adopt a regulation by January 1986 for the control of VOC emissions from architectural coatings (e.g., paints, varnishes and lacquers which are used to paint the exterior and interior of new or existing buildings). These controls could take the form of reformulation or an outright ban on certain high VOC content coatings.

e. *Consumer/Commercial Solvent Use.* The State has committed to the control of consumer/commercial solvent use. A regulation to reduce VOC emissions from such products as toiletries, aerosols, space deodrants and rubbing compounds will be adopted by July 1986. Control will be achieved through reformulation and product modifications.

4. Contingency Measure Controls on Existing Dry Cleaners (Perchloroethylene)

The State has committed to revise its Part 232, "Dry Cleaners," to ensure that the regulation requires RACT in the event that EPA continues to consider perchloroethylene as a reactive VOC. EPA is in the process of examining the reactivity of perchloroethylene (See 48 FR 49097; October 24, 1983).

The State adopted and submitted to EPA on July 25, 1983 Part 232, "Dry Cleaning," which controls the emissions of per-chloroethylene from dry cleaning operations. EPA, in its February 3, 1983 proposed approval action (48 FR 5137) on certain of New York's VOC control regulations indicated that it was not taking action to propose approval of this regulation pending the completion of certain technical studies. As pointed out on February 3, 1983, this regulation does not fully provide for RACT. This is because it does not require that

emissions from the dryers at existing facilities be vented through both a condenser *and* carbon adsorption system, or through equivalent control equipment.

Since the State has adopted this regulation and since it does provide for emission reductions, EPA is now proposing to approve Part 232 as currently adopted by the State. However, EPA's proposed approval should not be interpreted as a determination of the ability of Part 232 to provide for RACT as described in the appropriate CTG document. The State is committed to amending and adopting Part 232 to provide for RACT by January 1986.

5. Conclusion

a. *Group II CTG Requirements.* On January 26, 1984 (49 FR 3436) EPA took final action to approve State regulations for the control of VOC emissions from six of the nine Group II CTG source categories requiring control. Since RACT for dry cleaners may no longer be required and since the State's February 2, 1984 supplement commits to the development of regulations for the control of emissions from gasoline tank trucks and external floating roof tanks, the State has now fulfilled the EPA requirement concerning the Group II CTG source categories.

b. *Group III CTG Requirements.* The 1982 SIP submission contains a commitment to adopt RACT regulations for any future CTG source category identified by EPA. In fulfillment of this commitment, the February 2, 1984 supplement contains the results of an evaluation of the only two petroleum dry cleaning sources in the NJ-NY-CT AQCR. This source category is covered by a Group III CTG document. The State has determined that the two petroleum dry cleaning sources each emit less than 100 tons per year of VOCs. Consequently, because their emission rates are below the threshold value established by the CTG document, they need not meet the CTG's control requirements. Nevertheless, the State intends to regulate these sources as part of the measure, "New RACT-Small Sources."

c. *New RACT Measures.* EPA finds that the new RACT measures contained in the State's February 2, 1984 supplement adequately respond to EPA's requirements regarding the development and implementation of additional control measures. Consequently, EPA is proposing to approve the new RACT measures.

d. *Extraordinary Control Measures.* EPA finds that the extraordinary measures contained in the State's February 2, 1984 supplement adequately respond to EPA's requirements regarding the development and implementation of additional control measures. Although the measures require additional study to confirm their estimated effectiveness and, for some, the most reasonable method of implementation, the assumptions made by the State appear to be reasonable. Consequently, EPA is proposing to approve the extraordinary control measures.

B. Ozone Modeling

In its February 3, 1983 proposal, EPA was unable to accept the State's ozone modeling analysis. The State's analysis indicated that a 58 percent VOC emission reduction was needed to attain the ozone standard in the NJ-NY-CT AQCR. In a joint effort with New York and New Jersey, EPA had previously determined that a 60 percent reduction was necessary. However, based on changes to assumptions about emissions in future years, EPA currently believes that a 59 percent reduction in VOC emissions is necessary to attain the ozone standard in the NJ-NY-CT AQCR; the February 2, 1984 supplement reflects this number. Therefore, this particular deficiency identified in the 1982 submissions has been corrected.

EPA's recalculation reflects the fact that the State of New Jersey will be implementing additional measures on a state-wide basis outside of the NJ-NY-CT AQCR. Becaused New Jersey is instituting statewide controls, VOC emissions will be reduced not only in the NY-NJ-CT AQCR, But also in upwind New Jersey areas. This latter fact benefits the NY-NJ-CT AQCR by lowering, beyond that which was originally anticipated, the concentration of precursor VOC's being transported into the AQCR from upwind areas. As a result, the VOC emission reduction necessary to provide for attainment of the ozone standard in the NJ-NY-CT AQCR is lowered from 60 percent to 59 percent. (See 48 FR36141 August 9, 1983 for a fuller discussion of this calculation).

C. Emissions Inventory

The State has provided a revised inventory of its VOC emissions to reflect its revised ozone control program and the most current date available. The February 2, 1984 supplement provides an inventory which includes perchlorethylene as a VOC and one which does not include perchlorethylene. For the emissions inventory that does not include perchlorethylene, a detailed summary is provided by specific source category. For the emissions inventory that does include perchlorethylene, a summary of emissions is provided only for general source categories. Aside from perchloroethylene sources, the two inventories appear identical. The State chose not to provide a detailed emissions inventory for perchlorethylene since, as noted in Section II.B.4 of today's notice, EPA is in the process of examining the reactivity of perchloroethylene.

EPA is reviewing the adequacy of the emissions inventory with perchloroethylene. Table 3 presents a summary of the original inventory contained in the 1982 submissions and the revised inventory which includes perchloroethylene. EPA finds the revised emissions inventory to be adequate and proposes to approve it. However, this inventory makes use of a revised emission factor for calculating emissions from architectural coatings. This factor will be reviewed in a study to be conducted by the State in its development of the architectural coatings measure. EPA finds the interim use of the revised factor to be acceptable pending the results of the study.

TABLE 3.—VOC EMISSION IN THE NEW YORK STATE PORTION OF THE NJ-NY-CT AQCR

[Tons per year]

Source category	1980 baseline		1987 with RACT measures only		1987 with RACT and extraordinary control measures	
	Original [1]	Revised [2]	Original	Revised	Original	Revised
Point sources	18,148	17,916	14,086	9,826	.....	9,526
Area sources	344,023	320,518	200,256	168,789	.....	128,382
Total	362,171	338,434	214,342	176,615	.....	[3] 137,908

[1] From the August 3, 1982 submission.
[2] From the February 2, 1984 supplement.
[3] Based upon Table 1 of today's notice, EPA credits the ozone control program with an emissions reduction of 199,769 tons per year in 1987. Therefore, EPA finds the VOC emissions remaining in 1987 with the application of RACT and extraordinary control measures to be no greater than 138,665 tons per year. EPA has not yet confirmed the estimate made by the State of 137,908 tons per year.

In a related matter, in its approval of the 1979 SIP, EPA promulgated a condition at 40 CFR 52.1674(f)(2) which requires a submittal by the State of an adequate emissions inventory of VOC emissions in the NJ–NY–CT AQCR. Since EPA proposes to find the inventory contained in the February 2, 1984 supplement to be adequate, EPA is also proposing today to revoke this condition.

The revoking of 40 CFR 52.1674(f)(2) will provide full approval of the 1979 SIP for attainment of the ozone and carbon monoxide standards in the NJ–NY–CT AQCR. Consequently, this action, if made final, will remove the limitation on the construction or modification of major VOC sources in the AQCR. This limitation is currently in effect as a result of provisions of Section 110(a)(2)(I) of the Clean Air Act which imposes such limitations on areas which do not have in effect a SIP which meets the requirements of Part D. The U.S. Court of Appeals for the Second Circuit has held that the construction moratorium required under Section 110(a)(2)(I) must remain in effect until a state satisfies all conditions imposed by EPA on approval of a SIP. *See Connecticut Fund For The Environment* v. *EPA*, 672 F.2d 998, 1007–10 (2nd Cir. 1982), and *Council of Commuter Organizations* v. *Gorsuch*, 683 F.2d 648, 662 (2nd Cir. 1982).

D. Reasonable Further Progress and Annual Reporting

In its February 3, 1983 proposal, EPA identified the need for the State to develop additional ozone control measures so as to demonstrate reasonable further progress towards attainment of the ozone standard. This has now been accomplished.

The demonstration of reasonable further progress contained in the February 2, 1984 supplement generally shows a linear reduction (i.e., at a constant rate) in VOC emissions between 1980 and 1987. In the years 1980 and 1981 reductions in emissions are greater than what would have been accomplished if reductions were being achieved in a linear fashion. In 1984 and 1985 reductions are less than those required for linearity. In the years 1986 and 1987 reductions in emissions are again linear. A graph showing reasonable further progress is provided in the State's February 2, 1984 supplement. Also, to further document reasonable further progress, the State provides a table showing emission reductions on a year-by-year basis for eight generic source categories.

The February 2, 1984 supplement commits the State to submit to EPA an annual report which will discuss its progress in achieving the required emission reductions. The annual report will consist of an emission tracking element and an air quality trends element. If any shortfalls in emission reductions occur from those which are anticipated by the SIP, their effect on reasonable further progress will be discussed. Among other things, the report will discuss the effect of new sources, changes and updates to the emissions iventory, and changes in State and/or federal policy and law in relation to their effect on reasonable further progress. Should it be established that reasonable further progress is not being met for the reporting year, an analysis will be performed by the State to determine if the problem is temporary or persistent and if contingency measures should be developed to assure scheduled attainment of the ozone standard.

E. Demonstration of Attainment

In its February 3, 1983 proposal, EPA found that the State's VOC control program was inadequate to demonstrate attainment of the ozone standard by December 31, 1987. the State's February 2, 1984 supplement provides commitments to develop and implement a program of new RACT measures and extraordinary control measures sufficient to provide for attainment of the ozone standard by December 31, 1987. Therefore, EPA finds that, with the State's revised control program, the 1982 SIP now adequately demonstrates attainment of the ozone standard as required by the Clean Air Act.

III. Carbon Monoxide

A. Introduction

The 1979 SIP included a commitment to conduct a carbon monoxide hotspot study for the purpose of defining by June 1981 the extent and magnitude of the carbon monoxide problem in the New York City metropolitan area. However, because of technical and contractual problems, the study was still incomplete as of June 1982. As a result, the 1982 submissions contained little information on the New York City metropolitan area's carbon monoxide problems; it identified only two known hotspots. Consequently, in its Fedruary 3, 1983 notice, EPA proposed to disapprove the carbon monoxide element of the SIP. However, since that time, the carbon monoxide hotspot study has been completed and its results have been included in the State's February 2, 1984 supplement. The methodology employed in this study is described in the next section of today's notice.

B. Hotspot Study

1. Background

At the start of the hotspot study, local transportation planning and health agencies in the New York City metropolitan area prepared a list of candidate hotspots. From this list, sites were selected by the State as representative of the area's hotspot problems. Carbon monoxide, traffic, and meteorological data were collected at these representative sites for purposes of calibrating EPA-approved air quality models. The carbon monoxide concentrations at all of the the candidate hotspot sites were then predicted using the models.

2. New York City

The New York City Department of Environmental Protection (NYCDEP) used two air quality models to predict carbon monoxide concentrations at 47 candidate sites. For thirteen "deep-canyon" sites (i.e., sites that are relatively enclosed and typically are located in areas lined by tall buildings) NYCDEP used the SONDEL model. EPA has approved this model for use in the City of New York. For 34 "non-deep canyon" sites NYCDEP used the HIWAY 2 model. As a result of this analysis, seventeen of the non-deep canyon sites and all thirteen of the deep-canyon sites were predicted to violate the standard as of January 1, 1984.

3. Nassau and Westchester Counties

The State used EPA's Hotspot Verification procedure to screen potential carbon monoxide hotspots in Nassau and Westchester Counties. Thoses sites found to be in violation of the carbon monoxide standard were then further analyzed by the more refined EPA Intersection-Midblock Model (IMM).

In Nassau County eleven candidate site were evaluated and, without the application of control measures, one violation of the standard was predicted to exist after December 31, 1987. This hotspot occurs at the intersection of Old Country Road and Clinton Avenue. The remaining sites in Nassau County were predicted to be in attainment of the carbon monoxide standards prior to December 31, 1987.

In Westchester County sixteen candidate sites were evaluated and no violations of the standards after December 31, 1985 were predicted to occur.

C. Control Measures

1. Tailpipe Control Measures

Carbon monoxide emissions from mobile sources are controlled in the same manner as are VOC emissions. The following "tailpipe" control measures, discussed in Section II. B. 2.b.iv. of today's notice, will be implemented throughout the New York City metropolitan area:

- Federal motor vehicle control program,
- I/M Program (10% stringency),
- I/M
- Program (20% and 30% stringency),
- Anti-tampering, and
- Heavy Duty Gasoline Truck I/M

2. Site-specific Control Measures (Hotspots)

a. New York City. The February 2, 1984 supplement describes a four-phase approach by the State and City of New York to develop control measures at identified hotspots. Each year, a group of up to fifteen sites will be identified and any needed control measures will be developed and implemented.

Control measures for the first group of sites were implemented in 1983. The location of these sites and the control measures applied at each site are presented in Table 4. The February 2, 1984 supplement contains the results of modeling analyses demonstrating that the application of these measures will provide for the timely attainment of the carbon monoxide standards at each site.

Two categories of control measures have been directly applied in the City—areawide and local measures. They are as follows:

- Areawide:

—Tailpipe (see Section III. C.1.)
—Red Zone Bus Lanes
—Traffic Enforcement
—Queens-Midtown Tunnel Lane Reversal

- Local Measures:

—Signalization Changes
—Parking Restrictions
—Exclusive Turning Lanes
—Realignment of Existing Traffic Lanes

In addition, the State's submission refers to the "indirect air quality benefits" of other measures implemented by the New York City Department of Transportation. These measures are:

- Signal Computerization
- Parking Controls
- Express Bus and Carpool Lanes
- Traffic Flow Improvements
- Bicycle Lanes and Bicycle Storage Facilities
- Private Car Restrictions
- Park and Ride Facilities
- Pedestrian Priority Zones
- Land Use Policies and Development Controls.

TABLE 4.—CONTROL PROGRAM FOR GROUP I CARBON MONOXIDE HOTSPOTS IN NEW YORK CITY

Site	Control Measure [1]
Manhattan Central Business District:	
37th Street between Sixth and Eighth Avenues [2].	Traffic enforcement, Queens-Midtown Tunnel lane reversal.
47th Street between Fifth and Sixth Avenues.	Traffic enforcement
59th Street between Fifth and Madison Avenues [2].	Traffic enforcement
Lexington Avenue between 40th and 41st Streets [2].	Traffic enforcement, Red Zone bus lanes, Queens-Midtown Tunnel lane reversal
57th Street between Third and Lexington Avenues [2].	Traffic enforcement, Red Zone bus lines, Queens-Midtown Tunnel lane reversal
59th Street between Second and Third Avenues.	Traffic enforcement
Sixth Avenue between 31st and 32nd Streets.	Traffic enforcement, Queens-Midtown Tunnel lane reversal.
Fifth Avenue between 51st and 54th Streets.	Traffic enforcement, Red Zone bus lanes
Eighth Avenue between 40th and 42nd Streets.	Traffic enforcement
Outside of Central Business District:	
Canal Street between Church Street and Broadway.	Traffic enforcement, realignment of existing traffic lanes.
Canal Street between Elizabeth Street and Bowery.	Traffic enforcement, realignment of existing traffic lanes.
Houston Street between Bowery and Elizabeth Street.	Traffic enforcement, realignment of existing traffic lanes
Flatbush Avenue between Tillary and Johnson Streets.	Traffic enforcement, realignment of existing traffic lanes
Atlantic Avenue between Third and Fourth Avenues.	No additional measures necessary.

[1] Besides the site-specific measures identified in Table 4, all sites benefit from the emission reductions achieved through the State's Inspection and Maintenance program and other "tailpipe" measures.
[2] Deep-canyon site.

The February 2, 1984 supplement notes that the City considers its signal computerization project as a SIP commitment and as an essential element of its traffic control program. Also, the supplement cites (in Appendix K) the Metropolitan Transportation Authority's Five-Year Capital Program as another good faith effort which may provide additional air quality benefits.

As a measure of the effectiveness of the traffic enforcement measure, the SIP provides a commitment to maintain an average traffic speed in Manhattan of at least five miles per hour over any four-hour period. In addition, the SIP commits to maintaining a minimum level of traffic enforcement resources (i.e., 100 officers assigned to parking enforcement, 187 officers assigned to intersection control and moving violations, and 30 tow trucks) in the Midtown Core of Manhattan. It is stated in the February 2, 1984 supplement that this level will not be reduced unless the City does an analysis which demonstrates that the reduction will not adversely affect its ability to maintain the effectiveness of the traffic enforcement measure in the Midtown Manhattan Core. The City will transmit any such analysis to EPA.

b. *Nassau County.* The February 2, 1984 supplement describes the control measures to be applied at the site in Nassau County predicted to be in nonattainment of the carbon monoxide standard in 1987 without application of a transportation control measures. For the hotspot located at Old Country Road and Clinton Avenue, a reconstruction project identified in the 1984–1988 Transportation Improvement Program will improve traffic flow. This project will reduce the predicted carbon monoxide concentrations from 9.8 to 8.6 parts per million in 1987. The project is currently being designed.

D. Growth and Changing Traffic Patterns

1. Introduction

In order to meet the Clean Air Act's requirement for the maintenance of national ambient air quality standards once they are attained, the February 2, 1984 supplement cites a procedure which will be used to evaluate the impact of changing traffic patterns on air quality. The procedure makes use of the fact that an environmental impact statement (EIS), required by either the National Environmental Policy Act (NEPA), the State Environmental Quality Review Act (SEQRA), or the New York City Environmental Quality Review (CEQR), must be developed for certain major projects.

The State's submission describes SEQRA as requiring every State and local agency to assess the environmental impacts of proposed projects subject to the statute prior to the time when any actions are undertaken or approvals are issued. Projects subject to SEQRA that may be indirect sources of air pollution must be evaluated for their present and future contributions to air pollution. An indirect source is defined in the February 2, 1984 supplement as a facility, structure or installation, the construction or operation of which results or may result directly or indirectly in associated vehicular movements which contribute to concentrations of any air contaminant for which there is an air quality standard. While SEQRA applies to all State and local agencies, municipalities may adopt an environmental quality

review ordinance which can be no less restrictive than the State law; for example, New York City's CEQR.

In the February 2, 1984 supplement, NYSDEC commits to assist local governments in Nassau and Westchester Counties in implementing an indirect source review process within carbon monoxide nonattainment areas. In return, the State expects the local governments to use the results of the indirect source review process in their decisionmaking regarding the granting, denying or conditioning of permits for projects which are identified as indirect sources of air pollution.

In order to ensure that the carbon monoxide standards will be attained by December 31, 1987 and maintained thereafter, NYSDEC will not issue permits to proposed projects for which an EIS identifies a violation or exacerbation of the standard unless State or local government requires that the necessary steps will be taken to prevent the identified violation. The following sections in today's notice summarize the commitments made by local governments to assess growth and changing traffic patterns.

2. New York City

To further ensure that the carbon monoxide standard is attained and maintained in New York City, if an EIS for a project identifies a violation or exacerbation of the carbon monoxide standards, the City commits to ensure that control measures will be implemented by the project sponsor or City so as to provide for attainment of the standards by December 31, 1987 and maintenance thereafter.

The State and City will develop and implement any additional control measures that might be necessary to provide for attainment and maintenance if conditions (e.g., traffic, land use) anticipated by the SIP change significantly. The City is committed to give special attention to the significant development planned for the West Midtown area of Manhatten and to any control measure that might be necessary for that area.

3. Nassau County

NYSDEC commits to implement, by June 1, 1984, an indirect source review program and secure agreements with local governments in the nonattainment area of Nassau County to use the air quality assessment process in their decisionmaking regarding the granting, denying or conditioning of permits for projects which are identified as indirect sources of air pollution. Projects proposed in the Mitchel Field area are expected to result in growth and changed traffic patterns in the area. Consequently, NYSDEC, in cooperation with Nassau County, has begun to assess the impact of these projects upon the carbon monoxide concentrations at nearby intersections. Once impacts are determined, control measures selected for the area will be included as part of a September 1, 1984 submission to EPA.

4. Westchester County

The Westchester County Department of Health reviews the analysis of indirect source impacts performed for projects covered by SEQRA. For those projects where the Westchester County Health Department is an approving agency and where the proposed project is predicted to cause a contravention of the carbon monoxide standards, the applicant for the project will be required to evaluate control measures in accordance with the SEQRA process.

E. Reasonable Further Progress and Annual Reporting

The SIP must demonstrate that reasonable further progress toward attainment of the carbon monoxide standards will continue to be made and will be reported on throughout the period of nonattainment. The State's submission provides a staged elimination of hotspots in New York City, a schedule for the elimination of the current hotspots in Nassau County and a demonstration that the hotspots in Westchester County will be eliminated by the end of 1985. This demonstrates reasonable further progress through the systematic elimination of hotspots.

The February 2, 1984 supplement also commits the State to submit an annual report to EPA which will document its progress in implementing the SIP. One of the objectives of this report is to demonstrate that the predicted emission reductions are being achieved. The annual report will discuss four factors that can influence the effectiveness of the carbon monoxide element of the SIP, i.e., growth, changing traffic patterns, conservativeness of technical methods, and the accuracy of data. Also, the effects of certain new projects will be discussed.

F. Attainment Demonstration

As noted, for those hotspots addressed, the February 2, 1984 supplement demonstrates attainment of the carbon monoxide standard by December 31, 1987 through the adoption and implementation of the committed control measures.

G. Conclusion

EPA finds that the February 2, 1984 supplement provides an adequate program for the control of carbon monoxide. It adequately defines the nature and extent of the carbon monoxide problem and demonstrates attainment of the carbon monoxide standards. Consequently, EPA is proposing to approve the carbon monoxide element of the 1982 SIP.

IV. Other Requirements

A. Conformity

In its February 3, 1983 proposal, EPA found that the State's procedures for assessing conformity, as described in the 1982 submissions, were inadequate. However, since that time the area's Metropolitan Planning Organization (MPO)—the New York Metropolitan Transportation Council has adopted conformity procedures which EPA finds to be adequate.

The procedures include an assessment of the air quality effects of individual and collective transportation activities. The Transportation Improvement Program (TIP) will be reviewed by the MPO for the TIP's contribution in helping the State achieve reasonable further progress towards attainment of air quality standards and to ensure that all transportation projects committed to in the SIP are contained in it.

In addition, in its February 3, 1983 proposal, EPA determined that the 1982 SIP should also discuss procedures to assess for conformity purposes the emissions impacts of any federal actions including those not related to transportation. The February 2, 1984 supplement commits to a comprehensive annual reporting process whereby emissions from all federal actions will be considered.

EPA finds the procedures contained in the February 2, 1984 supplement to be adequate to ensure conformity of the 1982 SIP with transportation and federal actions.

B. Basic Transportation Needs

1. Introduction

Sections 110(c)(5)(B) and 110(a)(3)(D) of the Clean Air Act provide certain planning requirements associated with the meeting of "basic transportation needs" (BTN). In its decision of June 16, 1982, the U.S. Court of Appeals for the Second Circuit suggested specific criteria for reviewing the 1982 SIP against these provisions. *Council of Commuter Organizations* v. *Gorsuch*, 683 F.2d 648, 663 (2nd Cir. 1982). These were used by EPA in its evaluation of the February 2, 1984 supplement; EPA's review of how the supplement addresses each criterion follows.

2. Review Criteria

a. EPA should independently determine the adequacy of the State's definition of its basic transportation needs in accordance with EPA guidance.

The State's definition of BTN conforms to that contained in the BTN guidance proposed by EPA and the U.S. Department of Transportation (USDOT) on September 18, 1980 (45 FR 62170). The guidance provides that BTN shall be determined based on "a review of those changes in public transportation service, facilities, and/or policies that are necessary to maintain mobility as transportation control strategies are implemented".

The State notes in its February 2, 1984 supplement that there still are no transportation measures in the 1982 SIP which are expected to impede traffic flow to an extent which would divert auto users to transit. Therefore, BTN will continue to be met. The traffic signal computerization project is the only measure which could restrict the public's mobility. Since this project will make use of a system that could be used to meter (restrict) auto entries into the Manhattan central business district, some drivers may shift to the transit system. The February 2, 1984 supplement includes an analysis of the excess capacity of the New York City transit system. The analysis concludes that the system has sufficient capacity to absorb any automobile travelers diverted to transit as a result of the transportation measures contained in the 1982 SIP.

b. EPA should determine whether the identified measures as scheduled for implementation in the 1982 SIP meets the State's basic transportation needs by providing for a real improvement in public transportation for 1982 and each year thereafter (this evaluation requires a detailed discussion for the identified improvement measures).

The SIP does not identify any measures for implementation since none are necessary to meet BTN.

c. EPA should evaluate the SIP provisions of implementing details and schedules that are sufficiently specific to enable the monitoring of New York's progress toward meeting its basic transportation needs.

The SIP does not contain implementing details and schedules since no transit improvements are necessary to meet basic transportation needs.

d. EPA should ensure that the SIP identifies responsibile agencies required to take actions to implement identified strategies as scheduled. For instance, if New York continues to rely on a fair stabilization strategy, some agency or individual must take responsibility to ensure that this strategy is implemented.

The February 2, 1984 supplement identifies no strategies for implementation; therefore no agencies are defined with respect to BTN.

e. EPA should determine whether the SIP meets the equivalent reduction requirement (i.e., emission reductions equivalent to those which would have occurred if the bridge tolls had been implemented) and whether remedial action needs to be taken to remedy past failures to satisfy this requirement.

In its February 3, 1983 proposal, EPA pointed out that the 1982 submissions failed to provide an analysis and demonstration of emissions reduction which is required by Section 110(c)(5)(B) of the Clean Air Act. According to this provisions, the 1982 SIP must demonstrate that the measures included in the SIP provide for an emissions reduction equivalent to the reduction which was expected to be achieved from tolling the East and Harlem River crossings.

The February 2, 1984 supplement demonstrates that the following measures committed to in the 1982 SIP will meet this requirement:

- Increased stringency of the light duty vehicle I/M program from 20 to 30 percent (2,196 tons per year).
- Anti-tampering measures for light duty vehicles (422 tons per year).
- Vehicle use measures (626 tons per year).
- Increased stringency and anti-tampering for light duty trucks (180 tons per year).

The toll strategy was expected to result in a reduction in the vehicle miles travelled (VMT) in the metropolitan area by 0.4 percent. Based on the changing VOC emissions from highway vehicles, this percent reduction equates to different levels of VOC reduction depending on the year of analysis. Table 5 contains these VOC reduction levels, by year.

TABLE 5.—REDUCTION IN VOC EMISSION EXPECTED FROM THE BRIDGE TOLL STRATEGY

[Tons per year]

Year	Mobile source VOC emissions	Emissions reduction resulting from 0.4 percent VMT reduction
1977	225,047	900
1980	176,212	705
1981	149,183	595
1982	126,436	505
1983	107,227	430
1984	90,374	360
1985	75,864	305
1986	62,006	250
1987	49,922	200

Implementation of some of the above mentioned measures, and the resultant emission reductions, began in 1980. In addition, the measures will provide for the equivalent emission reduction requirement beginning in 1986. EPA does not believe that requiring remedial actions is either practical or necessary.

f. EPA should reevaluate the adequacy of the SIP's funding provisions in light of recent federal funding cutbacks and recent developments regarding state aid for mass transit.

The February 2, 1984 supplement does not contain transit funding information. However, since BTN are being met, no funding is needed to meet them.

g. EPA should assess the adequacy of consultation with local and regional agencies in the preparation of the 1982 SIP.

The February 2, 1984 supplement notes that consultation occurred in its development. There has been no indication by any local or regional agency of inadequate consultation.

3. Conclusion

In accordance with proposed EPA and USDOT guidance the State has determined that the present transit system provides for BTN and that no changes to this situation are anticipated. Therefore, EPA finds the New York program concerning BTN to be adequate and approvable. Also, EPA believes that the 1982 SIP responds to the extent appropriate to the review criteria suggested by the U.S. Court of Appeals given the fact that New York has found that no new transit improvement measures are required.

C. Resources

The 1982 SIP must identify financial and manpower resources necessary to carry out the commitments being made by the State. EPA provides financial resources to the State with funds made available under provisions of Section 105 of the Clean Air Act. At this time EPA assumes that adequate resources will be made available through State and federal funding for the State to meet its commitments. EPA will reevaluate

this finding on an ongoing basis during the period of SIP implementation.

IV. Summary

EPA is proposing approval of the supplemental information submitted by the State on February 2, 1984 and of the 1982 SIP in its entirety. EPA is soliciting comments only on the material discussed in today's notice. The Administrator's decision to approve or disprove this submission will be based upon the comments received and on whether the SIP revision as a whole meets the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 51.

Under 5 U.S.C Section 605(b), the Regional 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.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110. 172, 176 and 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, 7506 and 7601))

Dated: March 7, 1984.

Jacqueline E. Schafer,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 84-11559 Filed 4-30-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 74 and 98

Administration of Grants to States Other Than Block Grants or Open-End Grants; Extension of Comment Period

AGENCY: Department of Health and Human Services (HHS).

ACTION: Extension of comment period for proposed regulations.

SUMMARY: On February 24, 1984, at 49 FR 6927, we proposed for our closed-end categorical grants to States to replace our general grants administration regulations by reduced and simplified regulations. We have been requested to extend the comment period for the proposed regulations.

We see no reason not to extend the period. Final action on the proposed regulations must be delayed in any case because what action we take depends upon the results of an interagency review OMB is now conducting of its Circular A-102. That circular contains the Governmentwide grants administration policies that our regulations implement. The principal purpose of the proposed regulations is to obtain public comments that OMB can use in its review of the circular.

We are therefore extending the comment period for the proposed regulations an additional 60 days. We are not extending the comment period by more because we fear that a longer extension would result in the receipt of comments too late to be used in the OMB review.

DATE: The new date by which comments must be received is June 25, 1984.

ADDRESS: Send comments to: Joel Feinglass, Department of Health and Human Services, Room 513D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201. The public may see the comments received in Room 517D from 9 a.m. to 5:30 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Feinglass, Director, Division of Assistance Policy, 202-245-7565.

Dated: April 25, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 84-11727 Filed 4-30-84; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-281; FCC 84-89]

Nighttime Operations on Canadian, Mexican, and Bahamian AM Clear Channels

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its Rules pertaining to unlimited time operation by AM broadcast stations on Canadian, Mexican, and Bahamian Clear Channels. Use of these channels by U.S. stations have previously been prohibited or restricted by international agreements. The proposed amendments provide technical standards and non-technical criteria pertaining to operation on these channels and designate certain Class IV stations as "Class II-C". Comments are sought on the proposed standards, criteria and new designation, as well as on other relevant matters.

DATES: Comments must be filed on or before June 1, 1984. Reply comments must be filed on or before June 15, 1984.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

Lisit of Subjects in 47 CFR Part 73

Radio and television broadcasting.

Notice of Proposed Rulemaking

In the matter of Nighttime Operations on Canadian, Mexican, and Bahamian AM Clear Channels; MM Docket No. 84-281.

Adopted: March 15, 1984.

Released: March 22, 1984.

By the Commission.

I. Introduction

1. The Federal Communications Commission herein proposes technical and non-technical amendments to Part 73 of the Rules pertaining to unlimited time operation on channels heretofore designated as Canadian, Mexican, and Bahamian Class I-A Clear Channels.[1]

II. Background

2. The terms of the North American Regional Broadcasting Agreement ("NARBA") have, in the past, prohibited the United States from establishing any new nighttime AM operations on the seven Canadian Class I-A Clear Channels or on the Bahamian Clear Channel within 650 miles of the Canadian border and Bahama Islands, respectively. With the recent signing of the new bilateral agreement on AM broadcasting between the United States and Canada, this restriction has been removed with regard to the Canadian Clear Channels. The new bilateral agreement, which supersedes NARBA insofar as relations between Canada and the United States are concerned, permits nighttime operations on these Canadian Clear Channels anywhere in the U.S. as long as requisite protection is given Canadian assignments as determined in accordance with the new agreement. Although NARBA is still applicable with regard to the Bahamian Clear Channel, the Commonwealth of the Bahamas stated its intention in the Rio Final Acts of the Region 2 Conference on AM Broadcasting to denounce NARBA and to apply the principles set forth in the Region 2 Final

[1] The Canadian Class I-A's were designated in the North American Regional Broadcasting Agreement as 540, 690, 740, 860, 990, 1010, and 1580 kHz. The Mexican Class I-A clear channels, designated under the U.S./Mexican AM Agreement, are 540, 730, 800, 900, 1050, 1220, and 1570 kHz. The Bahamian Clear Channel is 1540 kHz.

Acts. The Bahamas has not as yet taken such action. However, in the course of recent bilateral discussions, that Administration has reaffirmed this intention. Once this is accomplished, the 650-mile restriction set forth by NARBA will no longer be applicable regarding the Bahamian Clear Channel.

3. The current bilateral agreement between the United States and Mexico precludes any new nighttime operations anywhere within the United States on the Mexican Class I–A Clear Channels. However, the United States and Mexico are in the process of negotiating a new bilateral AM agreement. Considerable progress has been made towards developing a new agreement that would permit nighttime operation on the U.S. and Mexican Clear Channels in a manner similar to that now permitted by the recent agreement with Canada.

4. During the negotiations for the new bilateral agreement with Canada, the Commission invited parties that would have an interest in applying for fulltime operation on the Canadian Clear Channels to make those interests known. In excess of 150 such expressions of interest were received, and they were used to assist the U.S. delegation in establishing protection rights on these channels. Although a substantial number of these filings were included in the frequency plan for the new agreement in order to maintain protection rights, they cannot be given domestic priority because the Commission must now establish appropriate amendments to the Rules governing the formal filing of applications for these frequencies.[2] Procedures have been included in the agreement that provide for shifting priorities from those tentative proposals now in the frequency plan to communities where applications may ultimately be formally filed and granted.

III. Discussion

5. The Commission invites comments from interested parties to assist it in formulating amendments to its rules governing applications for new fulltime Class II stations on the Canadian Class I–A Clear Channels. Additionally, with the anticipated denunciation of NARBA by the Bahamas and the encouraging progress made thus far in developing a new bilateral agreement with Mexico, we believe that it is appropriate to consolidate the essentially identical issues concerning use of these Bahamian and Mexican Clear Channels with the similar issues related to the Canadian Clear Channels.

6. It appears that the primary issues pertaining to use of these foreign Clear Channels are some of the same issues that were addressed previously in the Commission's *Report and Order* in Docket No. 20642, *Clear Channel Broadcasting in the AM Broadcast Band*, 787 F.C.C. 2d 1345 (1980), *recon. denied*, 83 F.C.C. 3d 216 (1980). Of particular relevance to this proceeding are those issues that the Commission resolved in Docket No. 20642 which concerned the technical and eligibility rules governing applications for new Class II AM broadcast stations on the U.S. Class I–A Clear Channels. Because of the relatively short time that has elasped since adoption of the 1980 *Report and Order*, we believe that the resolution of issues reached in that proceeding can also be applied in this proceeding. In light of this, we propose to adopt identical or similar standards for new fulltime Class II stations on the foreign Clear Channels as were adopted in Docket No. 20642. However, we invite any other proposals that would likely result in the greatest overall benefit to the public.

A. Non-Technical Issues

7. Prior to Commission action in Docket No. 20642, § 73.37(e)(2) of the Rules specified that one of three alternate threshhold standards must be met by applicants for authorization to operate nighttime.[3] As the Commission stated in its *Further Notice of Proposed Rulemaking* in that proceeding, these well established AM standards were also suitable for the new Class II stations which it proposed to authorize on the 25 Class I–A Clear Channels. 70 F.C.C. 2d 1077 (1979). In addition to applying these three threshhold standards to the 25 Class I–A Clear Channels, the Commission ultimately adopted in the *Report and Order* in Docket No. 20642 two additional threshhold standards, specifically limited to the 25 Class I–A Clear Channels, that were designed to provide additional opportunities for more minority-owned stations and for noncommercial radio service.[4]

8. In adopting these five threshold standards for new applications on the 25 Class I–A Clear Channels, the Commission assessed three requirements for new stations that it considered most prominent: (1) First or second local nighttime radio outlets to unserved or underserved communities; (2) more minority-owned stations; (3) additional noncommercial stations. During the relatively brief interval since 1980, it does not appear that the public's needs which give rise to these three prominent requirements have changed significantly. Because it was predicted in Docket No. 20642 that only approximately 100 to 125 new stations would result from the Commission's action in that proceeding, we conclude that opportunities to meet these needs still remain inadequate today. Therefore, it appears appropriate to also apply the five threshhold standards set forth in § 73.37(a)(2)(i)–(v) to the foreign Clear Channels which are the subject of this proceeding.

B. Technical Issues

9. Prior to Commission action in Docket No. 20642, Class II–B stations were defined in § 73.21(a)(ii) of the Rules as unlimited-time Class II stations, other than Class II–A stations, operating with a power not less than 250 watts nor more than 50 kW. Additionally, Class II–B stations normally were protected during the nigthtime to their 2.5 mV/m contour.[5] In Docket No. 20642, however, rules were adopted that gave different treatment to Class II–B applications and stations on the 25 U.S. Class I–A Clear Channels. For those 25 Clear Channels it was decided to distinguish between applications for Class II–B stations which would provide a first nighttime primary service to at least 25 percent of an area or population without service and applications for new Class II–B stations for all other situations. In the first case, a maximum nighttime power of 50 kW would be permitted, because such higher power may be necessary in order to reach unserved areas or populations. It was further decided that these stations generally would be protected nighttime to the lesser of either their 2.5 mV/m nighttime contours or to the lower interference level caused

[2] This is in accordance with the Commission's Public Notice, FCC 82–97, dated February 25, 1982, that called for expressions of interest.

[3] Subparagraph (i) required that at least 25 percent of the area or population to receive interference-free primary nighttime service did not receive such service from an existing AM station or from any FM station with a signal strength of 1mV/m or greater. Subparagraph (ii) required that the community designated in the application be provided with a first or second aural nighttime service and that no FM channel be available for use in the community. Subparagraph (iii) required that at least 20 percent of the area or population of the designated community receive fewer than two aural services at night and that no FM channel be available for use in the community.

[4] These new standards are reflected in Subparagraphs (iv) and (v). Subparagraph (iv) provides for minority ownership of 50 percent or more of applicants. Subparagraph (v) provides that the applicants operate noncommercially.

[5] When a station is already limited by interference from other stations to a contour of higher value than that normally protected for its class, this contour shall be established standard for such station with respect to interference from all other stations.

by previously authorized co-channel stations. It was concluded that all other Class II–B stations on these channels would be limited to a maximum nighttime power of 1 kW and normally would be protected nighttime to their 10 mV/m contours.[6] The Commission was of the view that these latter standards would, in general, be sufficient to enable potential unlimited-time Class II stations to provide satisfactory service to large cities where most minority populations reside as well as to smaller cities and nearby rural areas seeking local nighttime service. On balance it was believed that these decisions would satisfy the needs for adequate service areas while permitting the maximum number of new stations to be authorized.

10. We believe that such power limitation and protection standards as were adopted in Docket No. 20642 generally should be applicable for new fulltime Class II stations on the foreign Clear Channels that are the subject of this proceeding. Thus, it is proposed that all future applications for nighttime operations on these foreign Clear Channels will be limited to a maximum power of 1 kW unless the application is for a station that will provide a first nighttime primary service to at least 25 percent of an area or population without service. In this latter case, station power will be limited to 50 kW. Nighttime protection will normally be to the 10 mV/m and 2.5 mV/m contours, respectively. Unlike the decision in Docket No. 20642, however, we are not proposing that any Class II station be protected nighttime to a contour having a value less than 2.5 mV/m. As a practical matter, we do not think that this latter proposal will have any significant effect upon the ability of such stations to provide desired wide-area service, because it is expected that few new stations will be able to achieve nighttime limits less than 2.5 mV/m due to the large number of foreign stations that are already operating on these channels.

11. The Commission in Docket No. 20642 did not separately designate additional classifications for the Class II stations that would be limited to 1 kW nighttime power with nighttime protection to their 10 mV/m contours. For reasons of clarity, we propose here to amend the Rules in order to designate this group of stations as "Class II–C." Otherwise, new fulltime stations on these 25 U.S. Clear Channels would be designated as "Class II–B." It is proposed that this action would be applied retroactively to applications previously filed with the Commission or granted. Similarly, we also propose to apply these Class II–B and Class II–C designations to the Class II fulltime stations which would be authorized on the foreign Clear Channels that are the subject of this proceeding.

IV. Other Matters

12. As previously noted, NARBA only restricted nighttime operations on the Canadian and Bahamian Class I–A Clear Channels within 650 miles of the Canadian border and the Bahama Islands, respectively. Thus, beyond these 650-mile limits the FCC Rules have permitted applications to be filed on these Clear Channels. In order to provide consistent application of the Rules and to promote equitable treatment for new applicants on these Clear Channels, we are proposing that the technical and non-technical rule amendments being proposed herein shall be applicable throughout the United States and not just within the areas wherein nighttime operations had been precluded by NARBA. Applications that are already on file with the Commission and that were filed in accordance with the existing rules would receive protection in accordance with existing rules. Comments are requested on all aspects of the Commission's proposals.

13. *Regulatory Flexibility Act Initial Anaylsis:* I. *Reason for Action.* As a result of the (1981) *Final Acts* of the Regional Administrative MF Broadcasting Conference (Region 2) which changed the system of AM frequency priorities and of a bilateral agreement concluded with Canada as well as anticipated agreements with Mexico and the Bahamas, 14 AM broadcast frequencies formerly restricted or unavailable for nighttime use by United States AM radio stations have or are expected to become available for application by Class II stations for full-time use. In this proceeding, we seek to develop a record and to elicit comments concerning proposed rules to authorize use of this newly available spectrum space.

II *Objective.* This proceeding will elicit comments on the public interest benefits and costs of the proposed rule changes in accordance with fulfilling the mandate of Section 309(a) of the Communications Act of 1934, as amended. The Commission proposes to fully expand fulltime aural service on newly available AM frequencies and to establish criteria for applicants which address unmet broadcast needs.

III. *Legal Basis.* Legal action as proposed is in furtherance of Sections 4 and 303 of the Communications Act of 1934, as amended, which charges the Commission to explore new and improved uses of radio as well as to promulgate rules and set forth conditions and restrictions to carry our the provisions of the Communications Act.

IV. *Description, Potential Impact, and Number of Small Facilities Affected.* The proposed rules would apply existing criteria governing applications for fulltime broadcast stations to applicants seeking authorization to operate fulltime stations on 14 frequencies now or soon to be available. In addition, certain Class II–B stations will be redefined as "Class II–C."

The proposed rules provide for the authorization of a substantial number of fulltime stations which would be available to meet the need for additional minority-owned and noncommerial facilities. The rule changes are not expected to have a significant economic impact on a substantial number of small entities.

V. *Recording, record keeping and other compliance requirements:* None.

VI. *Federal; rules which overlap, duplicate or conflict with these rules:* None.

VII. *Any significant alternative minimizing impact on small entities and consistent with stated objective:* None.

Invitation to Comment

14. As noted, the bilateral negotiations with Canada have been concluded.[7] Although negotiations with Mexico and with The Bahamas have not yet progressed to the same point as those with Canada, we believe that they too will result in a satisfactory agreement. We believe it to be in the public interest to authorize new radio stations operating on the newly available spectrum space a soon as practicable following bilateral agreements. Thus, we propose to initiate the appropriate changes in our Rules in order that applications for such use may be considered by us as soon as possible.

15. Accordingly, pursuant to authority under Sections 1, 4(i) and (o) and 303(a) through (d), (f), (g), (h) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–169, it is proposed to amend the rules governing the use of the channels denoted herein by Class II–B and Class II–C radio stations so as to permit their use and to impose associated requirements, substantially as proposed in this *Notice*

[6] These classes of stations are currently defined in § 73.21(a)(2)(i) (C) & (D) of the Rules.

[7] The resultant draft aggreement is available for inspection at the Commission's offices and copies can be obtained through the Commission's copy contractor.

of Proposed Rule Making or in accordance with such variants, modifications, or alternatives within the scope of the issues of this proceeding, as we may find preferable after considering the entire record.

16. Pursuant to §§ 1.410 and 1.415 of the Commission's Rules, interested parties may file comments on or before June 1, 1984 and reply comments on or before June 15, 1984. All relevant and timely comments will be considered. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order.*

17. For purposes of this nonrestricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who makes an *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation on the day of oral presentation, and that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. *See* 47 CFR 1.1231.

18. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of the proposed rule on small entities. Written public comments are requested on the IRFA. The comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice,* but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice,* including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.* (1981).

19. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street,, NW., Washington, D.C. 20554. For further information on this proceeding, contact Joel Rosenberg, Policy and Rules Division, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–11634 Filed 4–30–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 84–232]

Future Public Safety Telecommunications Requirements; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Extension of comment/reply comment period.

SUMMARY: On March 7, 1984 the Commission released a *Notice of Inquiry* to examine future Public Safety telecommunications requirements. Comments were due May 15, 1984 and reply comments June 15, 1984. Two parties filed requests for extensions of time. The Commission extended the filing period three months.

DATES: Comments are now due by August 15, 1984 and replies by September 15, 1984.

ADDRESS: Submit comments to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joseph A. Levin, Private Radio Bureau, Land Mobile and Microwave Division, Rules Branch, (202) 634–2443.

The Notice of Inquiry appeared in the **Federal Register** on March 15, 1984 (48 FR 9754).

Order

In the matter of future public safety telecommunications requirements, (PR Docket No. 84–232).

Adopted: April 18, 1984.

Released: April 23, 1984.

By the Chief, Private Radio Bureau.

1. On March 7, 1984, the Commission released a *Notice of Inquiry* to examine future Public Safety telecommunications requirements. Comments are due May 15, 1984 and reply comments June 15, 1984. The County of Los Angeles, California (County), has requested an extension of time for filing comments in this proceeding. It requests the comment period be extended until September 15, 1984 with reply comments due October 15, 1984. Similarly, the Associated Public-Safety Communications Officers, Inc. (APCO) has requested a four month extension of time as well as clarification of the scope of the proceeding.

2. In support of its motion, County states that in order to achieve its objective of responding to the inquiry in a "thorough, positive and meaningful manner" it must analyze the telecommunications demands of the 83 cities within its geographic boundaries as well as its various user departments. County asserts this task will take longer than the time allotted. APCO, in support of its motion, states that an extension is necessary to gather data from its 48 chapters in order to adequately prepare the detailed and extensive response required by this inquiry.

3. We recognize the importance and considerable breadth of the issues involved in this proceeding. Therefore, an extension of time will be granted. However, the importance of this matter also requires that we proceed as expeditiously as possible to develop a plan which provides for the radio spectrum needs of State and local public safety authorities as mandated by Congress in the 1983 Authorization Act. In light of this, we believe that an extension of three months provides

sufficient time in which to prepare comments without sacrificing detail or quality.

4. APCO also requests clarification regarding whether, in the "Spectrum Availability/Suitability" portion of the inquiry, the omission of the 512–806 MHz band from the list of frequency bands was an error. It was not. The inquiry is directed to spectrum currently available to public safety authorities. However, this does not preclude APCO, or any other interested person, from submitting comments concerning other frequency bands.

5. Accordingly, it is ordered, pursuant to the authority set forth in section 0.331 of the Commission's Rules, that interested persons are to file comments by August 15, 1984 and reply comments by September 15, 1984.

6. The point of contact in this matter is Joseph A. Levin of the Rules Branch, Land Mobile and Microwave Division, (202) 634–2443.

Federal Communications Commission.

Robert S. Foosaner,

Chief, Private Radio Bureau.

[FR Doc. 84–11635 Filed 4–30–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 84–370; RM–4672; FCC 84–141]

Sharing of Two Police Radio Service Frequency Pairs With Eligibles in Fire and Special Emergency Radio Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to adopt rules which would eliminate the non-voice restriction on the frequency pairs 460.525/465.525 and 460.550/465.550 MHz and allow persons eligible in the Fire and Special Emergency Radio Services to use these frequencies on a coequal, shared basis with eligibles in the Police Radio Service. With the adoption of Docket 82–470 there is no need to continue reserving these frequencies specifically for non-voice use. Further, sharing channels among like users tends to increase spectrum utilization.

DATES: Comments are due by May 25, 1984 and replies by June 11, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, Rules Branch, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Notice of Proposed Rulemaking

In the Matter of Amendment of Part 90 of the Commission's Rules concerning the sharing of two Police Radio Service frequency pairs with eligibles in the Fire and Special Emergency Radio Services; PR Docket No. 84–370, RM–4672

Adopted: April 11, 1984.
Released: April 18, 1984.

By the Commission

1. The International Association of Fire Chiefs, Inc. (IAFC) and the International Municipal Signal Association (IMSA) have petitioned the Commission to amend Part 90 of the Rules and Regulations to allow persons eligible in the Fire and Special Emergency Radio Services to use the frequency pairs 460.525/465.525 and 460.550/465.550 MHz on a co-equal, shared basis with eligibles in the Police Radio Service.[1] In the alternative, IAFC and IMSA ask the Commission to "grandfather" indefinitely all Fire and Special Emergency licensees currently operating on these channels. The Associated Public-Safety Communication Officers, Inc. (APCO) filed comments opposing the petition. IAFC and IMSA filed reply comments reiterating the arguments in their petition.

2. The two frequency pairs in question are presently allocated to the Police Radio Service for uncoordinated non-voice operations. Police use of these channels, however, is secondary to "grandfathered" Fire and Special Emergency base/mobile voice operations. Fire and Special Emergency licensees on these channels have until March 1, 1986 to change frequencies.

Background

3. Prior to 1972 these two UHF frequency pairs were allocated exclusively to the Fire Radio Service. In that year, however, the Commission made the base side of each of the frequency pairs (460.525 and 460.550 MHz) available to eligibles in the Local Government and Special Emergency Radio Services on a shared basis with Fire Radio Service licensees. At the same time the mobile side of each pair (465.525 and 465.550 MHz) was reallocated exclusively to the Special Emergency Radio Service.[2] Two years later the Commission made the base side of the two frequency pairs available only in the Special Emergency Radio Service.[3] In 1976 the two frequency pairs were again the subject of a Commission action, this time in Docket 20484.[4] In this proceeding the Commission exchanged two pairs of frequencies in the Special Emergency Radio Service, 460/465.525 and 460/465.550 MHz, for two Police Radio Service frequency pairs, 462/467.950 and 462/467.975 MHz. The exchange was done in order to permit a continuum of emergency medical frequencies in the Special Emergency Radio Service.[5] A non-voice use limitation was imposed on police use of the new 460/465 MHz pairs. Fire and Special Emergency entities licensed on the two 460/465 MHz pairs at the time of the exchange were allowed to continue operations until March 1, 1986, and are considered primary to new non-voice police operations.

4. Petitioner contend that "time and circumstance have made the limitations on these channels obsolete and antithetical to current policies governing the utilization of spectrum available in the Private Land Mobile Services (PLMRS) in general, and in the Public Safety frequency assignments in particular." For example, they argue that the rationale for reserving two frequency pairs in the Police Radio Service specifically for non-voice operations is no longer valid. In PR Docket 82–470 the Commission elevated non-voice mobile communications to co-equal, primary status with voice communications on all coordinated private land mobile frequencies below 470 MHz.[6] Consequently, there is no longer any reason to reserve frequencies for non-voice operations. Further, petitioners contend that sharing frequencies between similar services is now widely recognized as a means of increasing private land mobile spectrum utilization.[7] Accordingly, petitioners

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[1] Petition for Rule Making, RM–4672, filed October 12, 1983.

[2] *Report and Order*, Docket 19261, 37 FR 6681, April 1, 1972.

[3] *Report and Order*, Docket 19880, 39 FR 26115, July 16, 1974.

[4] *Report and Order*, Docket 20484, 41 FR 10902, March 15, 1976.

[5] At that time the "MED" channels started at 463.000/468.000 MHz.

[6] *Report and Order*, PR Docket 82–470, 48 FR 4792, February 3, 1983.

[7] In this regard petitioners note Commission actions in PR Docket 81–110, 46 FR 55701, November 12, 1981, and PR Docket 79–191, 45 FR 81204, December 10, 1980, which adopted procedures for sharing frequencies between similar services.

argue that the displacement of current Fire and Special Emergency licensees on these channels is unnecessary, economically wasteful, and contrary to good spectrum management.

5. APCO, in its comments opposing the petition, agrees that the limitation restricting use of these two Police UHF frequency pairs to uncoordinated non-voice use is no longer necessary and asks that it be deleted. However, APCO argues against making the two frequency pairs available to new Fire and Special Emergency Radio Service users or extending the grandfather deadline. According to APCO, the petitioners have not demonstrated any need to alter the arrangement adopted in docket 20484. They state that the frequencies should remain in the Police Radio Service. Any further use of the channels by Fire and Special Emergency eligibles, according to APCO, should be through existing interservice sharing procedures.

Discussion

6. We have analyzed petitioners' request and it appears to have merit. The main reason for the Commission requiring Fire and Special Emergency licensees to change frequencies was the fact that it considered voice use incompatible with non-voice police operations. With the adoption of Docket 82-470 which allowed non-voice operations on regularly assignable base/mobile frequencies there is no need to continue reserving these frequencies specifically for non-voice use and therefore, little reason to require present Fire and Special Emergency licensees to vacate the channels. The primary issue then appears to be whether we should propose to grandfather indefinitely current users or make the channels available on a regular basis to more than one radio service. The sharing approach would appear to be the better choice. Sharing channels among like users tends to increase spectrum utilization. Further, such a sharing arrangement would provide a common channel for local police, fire, and medical entities to coordinate with one another in the event of a disaster. Accordingly, for the purposes of this Notice we are proposing to delete the non-voice limitation and make these two frequency pairs available to eligibles in the Fire and Special Emergency Radio Services for use on a co-equal, shared basis with eligibles in the Police Radio Service.

7. There are a number of different eligibility categories in the Special Emergency Radio Service. In past interservice sharing arrangements involving private land mobile radio, we have differentiated between public safety users and other private land mobile users.[8] We believe this policy should be continued. Accordingly, we are proposing to limit the use of these two frequency pairs in the Special Emergency Radio Service to governmental entities establishing eligibility under § 90.35(a), Medical Services.[9] This is consistent with the interservice sharing procedures adopted in Docket 81-110. In order to further assure that users are compatible we are proposing to limit Special Emergency use of the frequencies to emergency medical operations.

8. Finally there is the question of coordination. Frequency coordination is required in both the Police and Fire Radio Services for base/mobile (voice) operations. There is, however, no coordination requirement in the Special Emergency Radio Service or on the present non-voice use of these frequencies in the Police Radio Service. In order to take full advantage of the benefits of frequency coordination all users must participate. Accordingly, we are proposing to require Special Emergency applicants to submit evidence of frequency coordination when they apply for these channels.

9. In summary, we are proposing to delete the non-voice limitation on these two frequency pairs and make them available for base and mobile communications. Moreover, we are proposing to make the two pairs available to eligibles in the Fire Radio Service and to governmental entities able to establish eligibility under § 90.35 in the Special Emergency Radio Service for use on a co-equal, shared basis with eligibles in the Police Radio Service. Use of the frequencies by Special Emergency eligibles would be limited to emergency medical operations and coordination would be required.

Regulatory Flexibility

10. The Commission certifies that Section 603 and 604 of the Regulatory Flexibility Act of 1980 do not apply to the Rules proposed in this *Notice of Proposed Rule Making* because they will not have a significant economic impact on a substantial number of small entities. Police entities should not be affected since the item does not propose any change to the present use of these frequencies except to provide for additional shared usage by Fire and certain Special Emergency eligibles. Consequently, there will be no need for the purchase of any additional equipment. The Secretary shall cause a copy of this *Notice of Proposed Rule Making*, including the above certification, to be published in the Federal Register, and to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et. seq.* (1981).

11. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner of a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the Public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed Written comments for the proceeding, must prepare a writtten summary of that presentation. On the day of that oral presentation, a written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

12. Authority for issuance of this Notice of Proposed Rule Making is contained in Section 4(i) and 303(r) of the Communication Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before May 25, 1984 and

[8] In order to provide adequate protection against incompatible sharing of frequencies the Commission established two categories. One category includes governmental eligibles in the Public Safety and Special Emergency Radio Services, the other includes non-governmental eligibles in the Special Emergency Radio Service and all other eligibles in the Industrial and Land Transportation Radio Services, except the Radiolocation Service.

[9] We would consider a waiver of this rule, however, to allow non-governmental eligibles under § 90.35 to use these frequencies in instances where a city, town, or community wanted a common channel between all of its emergency services, (police, fire, ambulance, etc.) whether they be public or private.

reply comments on or before June 11, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In researching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

13. In Accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file and original and 11 copies. Members of the general public who wish to express their interest by participation informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

14. For further information on this proceeding, contact Herbert Zeiler, Private Radio Bureau, Federal Communications Commission, Washington, D.C. (202) 634–2443.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

Part 90 of the Commission's Rules and Regulations is amended as follows:

1. Section 90.19(d) is amended by removing limitations (18) and (20) from the frequency table and by revising the entries for frequencies 460.500–460.550 and 465.500–465.550 to read as follows:

§ 90.19 Police Radio Service.

* * * * *

(d) * * *

POLICE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
460.500	do	
460.525	do	17
460.550	do	17
* * * * *		
465.500	do	
465.525	do	17
465.550	do	17
* * * * *		

2. Section 90.19 is amended by revising paragraph (e)(17) and removing and reserving paragraphs (e)(18) and (e)(20).

* * * * *

(e) * * *

(17) This frequency is shared with the Fire and Special Emergency Radio Services.

(18) [Reserved]

(19) * * *

(20) [Reserved]

* * * * *

3. Section 90.21 is amended by revising paragraph (c)(8).

§ 90.21 Fire Radio Service.

* * * * *

(c) * * *

(8) This frequency is shared with the Police and Special Emergency Radio Services.

* * * * *

4. Section 90.53 is amended by revising paragraph (b)(17) and adding a new paragraph (b)(32).

§ 90.53 Frequencies available.

* * * * *

(b) * * *

(17) This frequency is shared with the Police and Fire Radio Services and is subject to the coordination requirements specified in § 90.175.

* * * * *

(32) This frequency is assignable only to governmental entities eligible under § 90.35(a) for the dispatch of medical care vehicles and personnel for the rendition or delivery of emergency medical services. This frequency may be designated by common consent for intra-system and inter-system mutual assistance purposes.

* * * * *

5. Section 90.175(e)(2) is revised to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(e) * * *

(2) Applications in the Special Emergency Radio Service, except as required by § 90.53(b)(8) and (17) and § 90.267 and § 90.175(g).

* * * * *

6. In § 90.555, paragraph (b) is amended by revising entries for frequencies 460.500–460.550 and 465.500–465.550 to read as follows:

§ 90.555 Combined frequency listing.

* * * * *

(b) * * *

Frequency	Services	Special limitations
* * * * *		
460.500	PP	
460.525	PP, PF, PS	
460.550	PP, PF, PS	
* * * * *		
465.500	PP	
465.525	PP, PF, PS	
465.550	PP, PF, PS	
* * * * *		

[FR Doc. 84–11350 Filed 4–30–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 97

[PR Docket No. 84–265]

Reimbursement of Out-of-Pocket Costs for Volunteer Administered Amateur Radio Examinations; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The preamble (summary) to the Notice of Proposed Rule Making in PR Docket No. 84–265, 49 FR 10316, March 20, 1984, is corrected to reflect the fact that the collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget for review pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35).

DATE: Comments should be submitted on or before June 8, 1984.

ADDRESS: Comments concerning the proposed requirements shall be directed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal, Communications Commission, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–11636 Filed 4–30–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition filed by Lewis S. Hollins, requesting this agency to amend the headlighting requirements for new motor vehicles, set forth in Federal Motor Vehicle Safety Standard No. 108. The petition alleged that motor vehicle safety could be improved by allowance of a single beam headlighting system in which the headlamp could be tilted to the upper beam position. The petition was denied primarily because experience and research have shown the safety need for two distinct beams of differing intensity and light distribution.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2520).

SUPPLEMENTARY INFORMATION: Lewis S. Hollins of Great Neck, N.Y., has filed a petition with NHTSA requesting a revision of the headlighting requirements currently incorporated in Safety Standard No. 108 (49 CFR 571.108).

The standard currently requires that motor vehicles, other than motorcycles whose horsepower is 5 or less, be equipped with dual beam headlighting systems.

In his petition Mr. Hollins asked for an amendment of Standard No. 108 to allow, as an optional system, one providing a single beam, a system in which the headlamps would be spring loaded to tilt upward at driver command to provide the equivalent of the upper beam found on dual beam headlamps. Mr. Hollins alleged that current dual beam headlamps are inferior to single filament ones in candlepower and range, and provide more glare. He argued that dual filament lamps are more expensive to produce, and that drivers use them improperly on the upper beam in traffic. In his view, single beam tiltable headlamps would be superior in each of these three respects.

The Office of Rulemaking conducted a technical review of the petition, in accordance with 49 CFR 552.8, to determine whether there would be a reasonable possibility that the order requested would be issued at the end of a rulemaking proceeding. Initially, the agency noted that the petitioner had submitted no data or other information, other than simple opinion, to support his contentions that dual beam headlamps were inferior to single ones in any of the three respects mentioned. Mr. Hollins presented only a concept without any details as to beam distribution and intensity, aiming control, or lateral alignment of the system. The agency has in the past denied rulemaking petitions where data has not been provided to substantiate the petitioner's arguments, or that its product was as safe as those currently passing Federal requirements (see, for example, Denial of Petition for Rulemaking, Pirelli, Standard No. 109, 47 FR 46865, October 21, 1982).

Nevertheless, the agency proceeded to examine the concept of a single beam headlamp. Such a lighting system has no apparent provision to change beam pattern or intensity. Standard No. 108 specifies two distinct beams, referred to as upper and lower, each of which contain minimum and maximum candlepower output to be met at a differing range of test points. The result is that the intensity of the upper beam is considerably greater than that of the lower beam, and provides substantially greater seeing distance for the driver. For example, an upper beam system with an intensity of 120,000 candela, directs a beam pattern down the road for a distance of approximately 900 feet, while a lower beam system with an intensity of 60,000 candela projects a beam of approximately on 400 feet; light from this pattern also spreads slightly to the right to illuminate the edge of the road. Such an ability to vary beam pattern and intensity in response to differing driving needs is lacking in the single filament system.

At the conclusion of the technical review the agency determined that there was not a reasonable possibility that at the end of the rulemaking proceeding Standard No. 108 would be amended to allow a single beam tiltable headlight system, and the petition was denied.

The program official and attorney principally responsible for the development of this agency position are Jere Medlin and Taylor Vinson, respectively.

(Secs. 103, 119, and 124, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1410a); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 25, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84–11707 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 40441–4041]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule (within the framework of the 1983 recommendations of the International Commission for the Conservation of Atlantic Tunas) to modify methods of determining the inseason adjustment of the catch rate limit and the allocation of giant Atlantic bluefin tuna within the General Category, and requests public comment. The proposed rule would allow NOAA to improve its response to unforeseen annual variations in the fishery for the benefit of the constituency, and reduce its cost. The intended effect is to provide uninterrupted fishing operations with accompanying benefit to the Atlantic bluefin tuna resource.

DATE: Comments must be received by May 25, 1984.

ADDRESSES: Send comments on this proposed rulemaking to National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, Massachusetts 01930–3097. Clearly mark "Comments on Atlantic bluefin tuna proposed rulemaking" on the outside of the envelope. Copies of the 1983 environmental assessment (EA) and the initial regulatory flexibility analysis (IRFA) are available from National Marine Fisheries Service, Northeast Region, Services Division, P.O. Box 1109, Gloucester, Massachusetts, 01931–1109

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–28–3600, extension 325; or David S. Crestin, 617–3600, extension 253.

SUPPLEMENTARY INFORMATION:

Background

The United States is a signatory nation to the International Convention for the Conservation of Atlantic Tunas

(the Convention, 20 UST 2887, TIAS 6767). The Convention's provisions entered into force for the United States on March 21, 1969. The United States' obligations under the Convention are prescribed by the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h) (the Act). The Act directs the Secretary of Commerce (Secretary) to promulgate rules necessary to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to carry out the purposes and objectives of the Convention. The Secretary's authority under the Act has been delegated to the Assistant Administrator for Fisheries (Assistant Administrator).

Rules presently governing the U.S. fishery for Atlantic bluefin tuna are at 50 CFR Part 285, Subpart B (48 FR 27755, 48 FR 35107, 49 FR 1043). These rules implement the following recommendations of ICCAT: (1) To reduce catch levels of Atlantic bluefin tuna in the western Atlantic Ocean to an amount which would provide a broad range of biological information while keeping catch levels conservative; (2) to limit the catch of Atlantic bluefin tuna smaller than 120 centimeters (cm) (47 inches) fork length to no more than 15 percent by weight of the total catch in the western Atlantic Ocean; and (3) to prohibit directed fisheries for Atlantic bluefin tuna in spawning areas, such as the Gulf of Mexico.

ICCAT held its Eight Regular Meeting in Madrid, Spain, November 9–15, 1983. This meeting was preceded by a meeting of the Standing Committee on Research and Statistics (SCRS), November 3–8. Current restrictions on fishing for Atlantic bluefin tuna in the western Atlantic Ocean were reviewed in light of the SCRS findings which offered no new information regarding the status of the stocks nor any new management advice. The SCRS had held two additional meetings on Atlantic bluefin tuna in 1983, but reported to the Commission that any analysis carried out before 1984 would not add significantly to the stock assessments. The Commission, therefore, recommended an extension of the existing management regime for one year. The United States emphasized its view that, in the absence of conclusive technical advice and analyses concerning status of the stock which would warrant new management measures, the present conservation program should continue.

As in 1983, the total allowable catch in the western Atlantic Ocean for 1984 will be 2,660 metric tons (mt) (2,932 short tons [st]), with allocations of 1,387.2 mt (1,529 st), 573.3 mt (632 st) and 699.4 mt (771 st) for the United States, Canada, and Japan, respectively. The percentage share of the total allowable catch for the western Atlantic Ocean remains the same for each nation in 1984 as in 1982 and 1983: United States, 52.15 percent; Canada, 21.55 percent; and Japan, 26.30 percent. ICCAT considers continuation of the 1983 management measures to be sound environmentally and within an acceptable catch range which will not place undue stress on the Atlantic bluefin tuna stocks.

Proposed Changes: Discussion of Major Issues

I. Variable Catch-Rate Limit for Harvesting Giant Atlantic Bluefin Tuna

In 1983, NOAA implemented rules establishing a variable catch rate for the General category (§ 285.24). This system was designed to provide for the longest possible fishing season while making as few inseason adjustments as necessary to the 650 st quota.

At the beginning of the 1983 season, vessels permitted in the General category under § 285.21(b) and fishing for giant Atlantic bluefin tuna were allowed to catch one giant Atlantic bluefin tuna per day per vessel. The rules required the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), to review this daily limit for appropriateness twice during the fishing season: first, about August 7, and second, about September 7. At the first review, if less than 30 percent of the handgear quota had been caught, the allowable limit would have been increased to two Atlantic bluefin tuna per day per vessel. At the second review, if 85 percent or more of the handgear quota had been caught, the allowable limit would have been set at one giant Atlantic bluefin tuna per day per vessel; if 70 or more percent, but less than 85 percent, of the handgear quota had been caught, the allowable limit would have been set at two giant Atlantic bluefin tuna per day per vessel; if more than 60 percent, but less than 70 percent, of the handgear quota had been caught, the allowable daily limit would have been set at three giant Atlantic bluefin tuna per day per vessel; if 60 percent or less of the handgear quota had been caught, the allowable limit would have been increased to four giant Atlantic bluefin tuna per day per vessel.

On August 7, 1983, a review of the landings data indicated that approximately 17 percent of the handgear quota had been taken. As required by the rules, the allowable catch rate was increased from one to two giant Atlantic bluefin tuna per day per vessel effective August 10 (48 FR 36597). This action was required despite the fact that daily landings were increasing at a significant rate and, further, that reports were being received indicating large numbers of giant Atlantic bluefin tuna were present in the traditional fishing areas from Maine to Long Island, New York.

The limit of two fish per day per vessel resulted in an increase of daily landings from approximately 10 st to 20 st per day in the latter part of August and into September. By September 7, over 85 percent of the quota available to this segment of the fishery had been caught resulting in the closure of the fishery on September 12 (48 FR 41163). After NOAA reviewed the landings data, the fishery was reopened on September 19 (48 FR 43043), then partially closed on September 28 (48 FR 44833), and closed for the remainder of the 1983 fishing season on October 13 (48 FR 46995).

NOAA believes the triggering mechanism mandating a change in the daily limit resulted in a series of management actions which unnecessarily interrupted fishing operations in the General category segment of the fishery. A closure, followed by a reopening, a partial closure, and final closure, all within a period of 30 days, resulted in fishermen being unable to reasonably plan their fishing activities. For example, the party/charter boat fleet had difficulty in deciding whether or not to book fishing trips in advance. Bait suppliers had to gamble on whether to stock large inventories of high-priced bait for Atlantic bluefin tuna fishermen. This series of rapid management actions tended to create confusion among the constituency and increased NOAA's paperwork burden and cost without any accompanying benefit to the Atlantic bluefin tuna resource.

To solve this problem, NOAA proposes to provide the Assistant Administrator, with authority to adjust the allowable limit of one giant Atlantic bluefin tuna per day per vessel after September 1 of each year. This adjustment would be based on criteria such as daily landing trends, availability of giant Atlantic bluefin tuna on the fishing grounds, and other factors which would interrupt the fishing activities in the General category throughout the regulatory area. This ability to adjust the limit based on changing conditions in the fishery will result in a more flexible system, and provide the greatest possible opportunity for all segments of the fishery to fish.

2. General Category Allocations

Geographical and seasonal differences in the conduct of the General category fishery continue to generate significant comment and debate regarding allocation of the quota, primarily from the constituency from western Long Islands, New York and New Jersey. In 1982, quota of 310 st was available from the General category, of which 25 st was reversed for the period following September 15, to allow for a late season for the directed rod-and-reel fishery on giant Atlantic bluefin tuna in the New York Bight area. This strategy failed because of the relatively small quota available and significantly increased daily landings in the latter part of August and early September. Due to these developments and the several days lag in receiving landings reports, 321 st were landed before a temporary closure could be effective to preserve the 25 st for the period following September 15. NOAA, therefore, was forced to close the General category fishery on September 13 for the remainder of 1982.

NOAA, in an attempt to prevent a premature closure of this fishery in 1983 as had occurred in 1982, increased the reserve from 25 st to 100 st (from approximately eight to 15 percent of the General category quota) for the period following September 15. This amount, in conjunction with a transfer of 84 st from the reserve for inseason adjustments autorized under § 285.22(g), resulted in an extension of the General-category fishery for giant Atlantic bluefin tuna from September 19 to October 13, when the fishery was closed throughout the regulatory area for the remainder of 1983 (48 FR 46995, October 17, 1983). During this period, approximately 23 st of giant Atlantic bluefin tuna were taken in the New York Bight area. The fishery was active at the time of closure. Atlantic bluefin tuna were reported present in this area and remained so through the month of November. The closure in mid-October, therefore, deprived the fishermen of an opportunity to harvest the resources.

The management options available in 1982 and 1983 to ensure the opportunity of a late season for giant Atlantic bluefin tuna in the New York Bight area proved to be inadequate. To prevent a recurrence of a premature closure of the giant Atlantic bluefin tuna fishery in this area in 1984, NOAA believes rules are needed which would provide the opportunity to review all available information important to the implementation of reasonable management controls within the General category. Specifically, NOAA proposes that if the Assistant Administrator determines, basd on dealer reports, fishing grounds data, or other relevant information, that variations in seasonal distribution or abundance may deprive an area of fishing opportunities, he may set aside a special allocation from the General category quota to continue fishing opportunities for this area. This special allocation would not exceed the greater of 50 st or the maximum annual harvest of the indentified area in any of the preceding three years. The Assistant Administrator would be required to publish a notice in the **Federal Register** of the Assistant Administrator's determination to make an allocation from the General category quota, the information used to determine the need for and the amount of the allocation, and the identity of the area. An allocation to a particular area would not prevent other fishermen from fishing for giant Atlantic bluefin tuna in the designated are with the specified gear. NOAA believes the discretionary authority inherent in this proposal would provide necessary flexibility for reasonable management of this segment of the Atlantic bluefin tuna fishery.

3. Other Proposed Changes to the Rules

NOAA also proposes several technical changes which make minor modifications to the existing rules for clarity, ease of understanding, or enforceability. The following section-by-section discussion explains these proposed changes.

Section 285.4. At the request of the United States Coast Guard, paragraphs (c) through (f), which specify procedures fishing vessel operators must follow to facilitate safe boarding and inspection of their vessel for enforcement purposes, have been added to this section. These proposed paragraphs would make these rules consistent with NOAA's other fisheries rules in Title 50 of the Code of Federal Regulations regarding at-sea fisheries enforcement by the United States Coast Guard.

Section 285.21. This section has been modified to identify more clearly the time frame in which a vessel's Atlantic bluefin tuna permit category may be changed. The restriction on changing vessel permit categories during the fishing season has provided the greatest possible opportunity for the largest number of fishermen to harvest giant Atlantic bluefin tuna. To allow otherwise would accelerate the rate at which the overall United States quota was caught, thereby resulting in early closure of the fishery.

Section 285.25. Paragraph (c) of this section is modified to require owners or operators of purse seine vessels to be responsible for weighing and measuring each medium or giant Atlantic bluefin tuna at the time of offloading and prior to overland transport. One of the two telephone numbers given for requesting inspection of purse seine vessel also has been updated.

Section 285.26. A sentence is added to identify explicitly fork length as the single criterion for the determination of size classes of Atlantic bluefin tuna. This proposed revision would remove potential ambiguity in this section, thus improving its enforceability.

Section 285.28. Paragraph (l) has been changed to clarify NOOA's intent that a permitted fishing vessel cannot be issued a permit for a buy-boat operation.

Section 285.30. Paragraph (c)(2) of this section is revised to change the reporting requirements by eliminating the 24-hour grace period for persons that land medium or giant Atlantic bluefin tuna and do not transfer the fish to a permitted dealer. Appropriate telephone numbers for contacting NMFS law enforcement offices are added. This proposed change would make this section more consistent with the reporting requirements of other sections of the rules and provide for more accurate and timely monitoring of the overall catch.

Section 285.31. Paragraph (cc) of this section is redesignated as paragraph (dd). A new paragraph (cc) is added to this section which establishes a new prohibition making it unlawful to possess unmarked handline or harpoon gear. This prohibition is necessary because of the new proposed § 285.33 for identifying ownership of handline and harpoon gear used in the giant Atlantic bluefin tuna fishery.

Section 285.32. Paragraphs (a) and (c) have been revised to make them consistent with the revisions made in § 285.31.

Section 285.33. This section is added to the rules to require that all handline and harpoon gear be marked with the vessel's Atlantic bluefin tuna permit number. This marking requirement would facilitate the identification of ownership of these gear types found onboard vessels or found unattached from vessels at sea. Identification of handline and harpoon gear would allow NOAA to monitor catches more effectively and thus assist in preventing fishermen from exceeding the daily catch rate. NOAA has found from experience that this proposed change would allow the rules to be enforced more effectively.

Classification

The Administrator of NOAA has determined that these rules are not major under Executive Order 12291 based on discussion in the preamble to these regulations. Additionally, it was determined that this action is not significant under the Regulatory Flexibility Act, and because these regulations do not change the intent of previously adopted regulations they are categorically excluded and no EA or EIS was prepared. Copies of all previously published reports may be obtained from the NMFS Northeast Region, Services Division, P.O. Box 1109, Gloucester, MA 01931–1109.

The information collection requirements for this Act, previously approved by the Office of Management and Budget (OMB) under OMB control numbers 0648–0097, –0031, and –0013, will not be effected by any of the proposed changes.

The purpose of this proposal is to provide a more efficient system for establishing the limit on catch rate in this category. There are no expected impacts associated with this proposal which were not discussed in the 1933 EA, regulatory flexibility analysis/regulatory impact review (RFA/RIR), or in the previous regulations.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements.

Dated: April 25, 1984.

Carmen J. Blonin,

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

For the reasons set forth in the preamble, 50 CFR Part 285 is proposed to be amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 is as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. Subpart B of the Table of Contents is amended by adding a new § 285.33 Gear identification, to read as follows:

* * * * *

Subpart B—Atlantic Bluefin Tuna

* * * * *

285.33 Gear identification.

* * * * *

3. Section 285.4 is amended by adding new paragraphs (c), (d), (e), and (f) to read as follows:

§ 285.4 Enforcement.

* * * * *

(c) The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Act and this part.

(d) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, or flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(e) *Boarding.* The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF–FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(f) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.– .–)[1, 2] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY–CY" (.– .– .– – –.–. –.– –) means "you should proceed at slow speed, a boat is coming to you." The signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... –.– ...– –) means "you should stop or heave to; I am going to board you."

(4) "L" (.–..) means "you should stop your vessel instantly."

4. Section 285.21 is amended by adding a new sentence to the end of paragraph (c) to read as follows:

§ 285.21 Vessel permits.

* * * * *

(c) *Application procedure.* * * * After May 15, the vessel's permit category may not be changed for the remainder of the calendar year regardless of any change in the vessel's ownership.

* * * * *

5. Section 285.22 is amended by removing the words "Regional Director" and replacing them with "Assistant Administrator" each time they appear in paragraph (g) and revising paragraph (a) to read as follows:

§ 285.22 Quotas.

* * * * *

(a) *General.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General category under § 285.21(b) is 650 st (590 mt). If the Assistant Administrator

[1] Period (.) means a short flash of light.

[2] Dash (–) means a long flash of light.

determines (based on dealer reports, availability of giant Atlantic bluefin tuna on the fishing grounds, and any other relevant information), that variations in seasonal distribution, abundance, or migration patterns of Atlantic bluefin tuna, and the catch rate, may prevent fishermen in an identified area from harvesting their share of the quota, the Assistant Administrator may set aside an allocation for such area. The amount of any allocation will not exceed the greater of 50 st or the maximum reported landings in the identified area in any of the preceeding three years. The daily catch rate limit for the identified area will be set at one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator will publish a notice of any allocation and its basis in the Federal Register.

* * * * *

6. Section 285.24 is amended by revising paragraph (a) to read as follows:

§ 285.24 Catch rate limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b), may catch only one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator, on or about September 1, may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevent factors to provide for maximum utilization of the quota. The Assistant Administrator will publish a notice in the Federal Register of any adjustment in the allowable daily catch rate limit made under this paragraph. Operators of vessels permitted in the General category may possess giant Atlantic bluefin tuna in an amount not to exceed a single day's catch as allowed by the daily catch rate limit in effect at that time.

* * * * *

7. Section 285.25 is amended by revising paragraph (c) to read as follows:

§ 285.25 Purse seine vessel requirements.

* * * * *

(c) *Inspection.* Any owner or operator of a purse seine vessel with a permit issued under § 285.21(b) must request an inspection of the vessel and fishing gear by an enforcement agent of the NMFS before commencing any fishing trip and before offloading any Atlantic bluefin tuna. The vessel owner or operator must request such inspection at least 24 hours before commencement of a fishing trip or offloading by calling 617–281–3600 extension 252; or 617–563–5721. Purse seine vessel owners or operators must have each medium and giant Atlantic bluefin tuna in their catch weighed (round weight), measured, and the information recorded on the appropriate forms at the time offloading and prior to transport from the area of offloading.

* * * * *

8. Section 285.26 is revised to read as follows:

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, it is a rebuttable presumption for purposes of this subpart that the tuna, when caught, fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forward most part of the beheaded fish to the fork of the tail. the fork length measurement will be the sole criterion for determining the size class of an individual Atlantic bluefin tuna. Approximate round weight in the table are given for illustrative purposes only.

* * * * *

9. Section 285.28 is amended by revising pargaraph (l) to read as follows:

§ 285.28 Dealer permits.

* * * * *

(l) *Buy-boats.* Each buy-boat must have a dealer permit issued under this section. The Regional Director will not issue a dealer permit for a buy-boat operation under this section to any vessel which has a valid fishing vessel permit issued under § 285.21. The Regional Director will not issue a dealer permit to a buy-boat unless the owner or operator of the buy-boat agrees in writing to allow an individual authorized by the Regional Director to accompany the buy-boat on any trip to observe operations. The Regional Director will provide reasonable notice to the owner or operator of any buy-boat that an individual will be placed on board. The Regional Director will reimburse the owner of any buy-boat for any expenses which the Regional Director determines to be reasonable and which are related directly to the placement of an individual on that buy-boat.

10. Section 285.30 is amended by revising paragraph (c)(2) to read as follows:

§ 285.30 Metal tags.

* * * * *

(c) * * *

(2) Any person who catches a medium or giant Atlantic bluefin tuna and does not transfer it to a permitted dealer must contact the nearest NMFS enforcement office at the time of landing such Atlantic bluefin tuna and make the tuna available for inspection and attachment of a metal tag. The offices to contact are: Portland, Maine (207–780–3241); Otis Air Force Base, Massachusetts (617–563–5721), and upton, New York (516–282–3267).

* * * * *

11. Section 285.31 is amended by removing the final "or" from paragraph (bb), by redesignating paragraph (cc) as (dd), and by adding a new paragraph (cc) to read as follows:

§ 285.31 Prohibitions.

* * * * *

(cc) To use or possess handline or harpoon floatation gear which is not marked in accordance with § 285.33, or is marked with the Atlantic bluefin tuna permit number of another vessel; or

* * * * *

12. Section 285.32 is amended by revising paragraphs (a) and (c) to read as follows:

§ 285.32 Civil penalties.

(a) Any person who violates paragraphs (a) through (u) inclusive, or paragraphs (x) through (cc), inclusive, of § 285.31 will be assessed a civil penalty of not more than $25,000 for a first violation and a civil penalty of not more than $50,000 for a subsequent violation.

* * * * *

(c) Any person who violates paragraph (dd) of § 285.31 will be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

13. A new § 285.33 is added to read as follows:

§ 285.33 Gear identification.

Any flotation device attached to handline or harpoon gear must be marked with the Atlantic bluefin tuna permit number of the vessel from which it is used. The required markings must be permanently affixed and at least one inch in height in block Arabic numerals of a color that contrasts with the background color of the flotation device.

[FR Doc. 84–11829 Filed 4–26–84; 11:10 am]
BILLING CODE 3510–22–M

MARINE MAMMAL COMMISSION

50 CFR Part 560

Government in the Sunshine Act

AGENCY: Marine Mammal Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to the Government in the Sunshine Act, (Sunshine Act) (5 U.S.C. 552b), the Marine Mammal Commission proposes to amend Title 50, Chapter V of the Code of Federal Regulations by adding a new Part 560. The purpose of the proposed regulations is to implement the open meeting requirements of the Sunshine Act (5 U.S.C. 552b (b)–(f)). Promulgation of these regulations is required by 5 U.S.C. 552b (g).

DATES: To be assured of consideration, comments must be in writing and must be received on or before June 15, 1984.

ADDRESS: Comments should be sent to: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, Room 307, 1625 I Street, NW., Washington, D.C. 20006.

Comments should refer to specific sections in the regulation and, where appropriate, recommend alternative language.

Comments received will be available for public inspection in Room 307, 1625 I Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Donald C. Baur, General Counsel, Marine Mammal Commission, Room 307, 1625 I Street, NW., Washington, D.C. 20006, (202) 653–6237.

SUPPLEMENTARY INFORMATION:

Background

Enacted in 1976, the Government in the Sunshine Act advances the policy of Congress that "the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government" (5 U.S.C. 552b). It is based on the proposition that "the government should conduct the public's business in public" (S. Rep. No. 354, 94th Cong., 1st Sess. 1 (1975)). Through its provisions, Congress has attempted to "increase the public's faith in the integrity of government, enable the public to better understand the decisions reached by the Government, and better acquaint the public with the process by which agency decisions are reached" (*Id*).

The requirements of the Sunshine Act apply to each agency that is headed by a "collegial body composed of two or more members, a majority of whom are appointed to such positions by the President with the advice and consent of the Senate" (5 U.S.C. 552b(a)(1)). Agencies included within this definition are required to hold "every portion of every meeting . . . . open to public observation," (5 U.S.C. 552b (b)), unless the meeting or portions thereof fall within one of the ten exemptions set forth in 5 U.S.C. 552b (c). These exemptions are permissive, not mandatory, and an agency may either open or release information about an otherwise exempted meeting or portion thereof.

The Marine Mammal Commission was established purusant to statute in 1972, under section 201 of the Marine Mammal Protection Act (16 U.S.C. 1401). Under that section, the Commission is composed of three members who are "knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals" (16 U.S.C. 1401(a)(1)).

On December 29, 1982, the Marine Mammal Protection Act was amended to require that all future members of the Commission be appointed by the President "by and with the advice and consent of the Senate" (Pub. L. 97–389, section 202, 96 Stat. 1951). This amendment brought the Commission within the Sunshine Act definition of "agency." As a result, at such time as two members of the Commission have been appointed in accordance with the procedures of the 1982 amendment, the Commission will be required to conduct its deliberations in compliance with the open meeting provisions of the Act.

It is the intent of this rulemaking to develop Marine Mammal Commission regulations that implement the requirements of the Act prior to the time a majority of the members of the Commission have been appointed by the President with the advice and consent of the Senate. Although the decisionmaking processes of the Commission have consistently provided for public observation and participation, these proposed regulations will bring those procedures into technical compliance with the Sunshine Act.

Drafting Information

The primary author of these regulations is Donald C. Baur, General Counsel, Marine Mammal Commission.

Paperwork Reduction Act

This rulemaking adds no 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 Commission has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, February 19, 1981).

In accordance with the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*), the Commission has determined that the regulations in this rulemaking will not have a significant economic effect on a substantial number of small entities, and that a regulatory analysis is not required. The proposed regulations are procedural requirements affecting the internal processes of the Marine Mammal Commission. As such, they do not impose significant burdens on the public or any class or group of small entities.

These proposed regulations do not affect the environment. No environmental assessment or environmental impact statement has been prepared.

List of Subjects in 50 CFR Part 560

Sunshine Act.

In consideration of the foregoing, 50 CFR Chapter V is proposed to be amended by adding a new Part 560, reading as follows:

PART 560—IMPLEMENTATION OF THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

560.1 Purpose and scope.
560.2 Definitions.
560.3 Open meetings.
560.4 Notice of meetings.
560.5 Closed meetings.
560.6 Procedures for closing meetings.
560.7 Recordkeeping requirements.
560.8 Public availability of records.
560.9 [Reserved]

Authority: 5 U.S.C. 552b(g).

§ 560.1 Purpose and scope.

This part contains the regulations of the Marine Mammal Commission implementing the Government in the Sunshine Act (5 U.S.C. 552b). Consistent with the Act, it is the policy of the Marine Mammal Commission that the public is entitled to the fullest practicable information regarding its decisionmaking processes. The provisions of this part set forth the basic responsibilities of the Commission with regard to this policy and offer guidance to members of the public who wish to exercise the rights established by the Act. These regulations also fulfill the requirement of 5 U.S.C. 552b(g) that each agency subject to the Act shall promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of section 552b.

§ 560.2 Definitions.

For purposes of this part, the term—

"Administrative Officer" means the Administrative Officer of the Marine Mammal Commission.

"Commission" means the Marine Mammal Commission, a collegial body established under 16 U.S.C. 1401 that functions as a unit and is composed of three individual members, each of whom

is appointed by the President with the advice and consent of the Senate.

"Commissioner" means an individual who is a member of the Marine Mammal Commission.

"Executive Director" means the Executive Director of the Marine Mammal Commission.

"General Counsel" means the General Counsel of the Marine Mammal Commission.

"Meeting" means the deliberations of at least a majority of the members of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include an individual Commissioner's consideration of official Commission business circulated in writing for disposition either by notation or by separate, sequential consideration, and deliberations on whether to:

(1) Change the subject matter of a publicly announced meeting, as provided in § 560.4(e) of this part;

(2) Call a meeting at a date earlier than announced, as provided in § 560.4(f) of this part;

(3) Close a portion or portions of a meeting or series of meetings, as provided in § 560.5 of this part; or

(4) Determine whether or not to withhold from disclosure information pertaining to a meeting, portions of a meeting, or series of meetings, as provided in § 560.5 of this part.

"Public observation" means attendance by a member of the public at an open meeting of the Commission, but does not include participation in the meeting.

"Public participation" means the presentation or discussion of information, raising of questions, or other manner of involvement in an open meeting of the Commission by a member of the public in a manner that contributes to the conduct of Commission business.

§ 560.3 Open meetings.

(a) Except as otherwise provided in this part, every portion of every meeting of the Commission shall be open to public observation.

(b) Meetings of the Commission, or portions thereof, shall be open to public participation only when an announcement to that effect is issued under § 560.4(b)(4) of this part. Public participation shall be conducted in an orderly, nondisruptive manner and in accordance with such procedures as the chairperson of the meeting may establish. Public participation may be terminated at any time for any reason.

(c) When holding open meetings, the Commission shall make a diligent effort to provide ample space, sufficient visibility, and adequate acoustics to accommodate the public attendance anticipated for the meeting.

(d) Members of the public may record open meetings of the Commission by means of any mechanical or electronic device, unless the Commission determines that such recording would disrupt the orderly conduct of the meeting.

§ 560.4 Notice of meetings.

(a) Except as otherwise provided in this section, the Commission shall make a public announcement at least 7 days prior to a meeting.

(b) The public announcement shall include:

(1) The time and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting is to be open, closed, or portions thereof closed;

(4) Whether public participation will be allowed; and

(5) The name and telephone number of the person who will respond to requests for information about the meeting.

(c) The public announcement requirement shall be implemented by:

(1) Submitting the announcement for publication in the Federal Register;

(2) Distributing the announcement to affected governmental entities;

(3) Mailing the announcement to persons and organizations known to have an interest in the subject matter of the meeting; and

(4) Other means that the Executive Director deems appropriate to inform interested parties.

(d) A meeting may be held with less than 7 days notice if a majority of the members of the Commission determine by recorded vote that the business of the Commission so requires. The Commission shall make a public announcement to this effect at the earliest practicable time. The announcement shall include the information required by paragraph (b) of this section and shall be issued in accordance with those procedures set forth in paragraph (c) of this section that are practicable given the available period of time which are determined by the Executive Director to provide interested parties with adequate notice.

(e) The subject matter of an announced meeting, or the determination of the Commission to open or close a meeting or portions thereof to the public, may be changed if a majority of the members of the Commission determine by recorded vote that Commission business so requires and that no earlier announcement of the change was possible. The Commission shall make a public announcement of the changes made and the vote of each member on each change at the earliest practicable time. The announcement shall be issued in accordance with those procedures set forth in paragraph (c) of this section that are practicable given the available period and which are determined by the Executive Director to provide interested parties with adequate notice.

(f) The time or place of an announced meeting may be changed only if a public announcement of the change is made at the earliest practicable time. The announcement shall be issued in accordance with those procedures set forth in paragraph (c) of this section that are practicable given the available period of time and which are determined by the Executive Director to provide interested parties with adequate notice.

§ 560.5 Closed meetings.

(a) A meeting or portions thereof may be closed, and information pertaining to such meeting or portions thereof may be withheld from the public, only if the Commission determines that such meeting or portions thereof, or the disclosure of such information, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Exective Order to be kept secret in the interest of national defense or foreign policy and (ii) in fact properly classified pursuant to that Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the statute: (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve either accusing any person of a crime or formally censuring any person;

(6) Disclose information of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose either investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but

only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to either a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled either by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or,

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Commission. This exception shall not apply in any instance where the Commission has already disclosed to the public the content or nature of the proposed action or where the Commission is required by law to make such disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the issuance of a subpoena by the Commission, or the participation of the Commission in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Before a meeting or portions thereof may be closed to public observation, the Commission shall determine whether or not the public interest requires that the meeting or portions thereof be open. The Commission may open a meeting or portions thereof that could be closed under paragraph (a) of this section if the Commission finds it to be in the public interest to do so.

§ 560.6 Procedures for closing meetings.

(a) A meeting or portions thereof may be closed and information pertaining to such meeting or portions thereof may be withheld under § 560.5 of this part only when a majority of the members of the Commission vote to take such action.

(b) A separate vote of the members of the Commission shall be taken with respect to each meeting or portion thereof proposed to be closed and with respect to information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings or portions thereof which are proposed to be closed, so long as each meeting or portion thereof in such series involves the same particular matter and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each participating Commission shall be recorded, and no proxies shall be allowed.

(c) A person whose interests may be directly affected by a portion of a meeting may request in writing that the Commission close that portion of the meeting for any of the reasons referred to in § 560.5(a) (5), (6) or (7) of this part. Upon the request of a Commissioner, a recorded vote shall be taken whether to close such meeting or a portion thereof.

(d) Before the Commission may hold a closed meeting, a certification shall be obtained from the General Counsel that, in his or her opinion, the meeting may properly be closed. The certification shall be in writing and shall state each applicable exemptive provision from § 560.5(a) of this part.

(e) Within one day of a vote taken pursuant to this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each Commissioner.

(f) In the case of the closure of a meeting or portions thereof, the Commission shall make publicly available within one day of the vote on such action a full written explanation of the reasons for the closing together with a list of all persons expected to attend the meeting and their affiliation.

§ 560.7 Recordkeeping requirements.

(a) Except as otherwise provided in this section, the Commission shall maintain either a complete transcript or electronic recording of the proceedings of each meeting, whether opened or closed.

(b) In the case of either a meeting or portions of a meeting closed to the public pursuant to §§ 560.5(a)(8) or (10) of this part, the Commission shall maintain either a complete transcript, an electronic recording, or a set of minutes of the proceedings. If minutes are maintained, they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken and the reasons for which such actions were taken, including a description of the views expressed on any item and a record reflecting the vote of each Commissioner. All documents considered in connection with any action shall be identified in such minutes.

(c) The transcript, electronic recording, or copy of the minutes shall disclose the identity of each speaker.

(d) The Commission shall maintain a complete verbatim copy of the transcript, a complete electronic recording or a complete copy of the minutes of the proceedings of each meeting for at least two years, or for one year after the conclusion of any Commission proceeding with respect to which the meeting was held, whichever occurs later.

§ 560.8 Public availability of records.

(a) The Commission shall make available to the public the transcript, electronic recording, or minutes of a meeting, except for items of discussion or testimony that relate to matters the Commission has determined to contain information which may be withheld under § 560.5 of this part.

(b) The transcript, electronic recording or minutes of a meeting shall be made available for public review as soon as practicable after each meeting at the Marine Mammal Commission, 1625 I Street, NW., Washington, D.C. 20006.

(c) Copies of the transcript, a transcription of the electronic recording, or the minutes of a meeting shall be furnished at cost to any person upon written request. Written requests should be addressed to the Administrative Office, Marine Mammal Commission, 1625 I Street, NW., Washington, D.C. 20006.

§ 560.9 [Reserved]

Dated: April 27, 1984.

John R. Twiss, Jr.,

Executive Director, Marine Mammal Commission.

[FR Doc. 84-11567 Filed 4-30-84; 8:45 am]

BILLING CODE 6820-31-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

[Docket No. 30812-162]

High Seas Salmon Fishery Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed delay in season opening date.

SUMMARY: The Secretary of Commerce proposes to delay the opening date of the commercial fishery for chinook salmon in the fishery conservation zone (FCZ) off southeast Alaska from the previously-scheduled May 15 to June 5, 1984. The Director, Alaska Region, NMFS has determined that this delay is necessary to reduce the overall fishing effort on chinook salmon early in the season as well as to mitigate the effects of hooking mortality on incidentally-caught chinook that would occur during a coho-only season. This action is intended to conserve chinook salmon stocks that contribute to the Alaska, Oregon, and Washington chinook salmon fisheries.

DATES: Public comments on this proposed action are invited until May 8, 1984. The final notice is expected to be effective 12:01 a.m. Alaska Daylight Time (ADT) on May 15, 1984, delaying the opening of the 1984 fishing season for chinook salmon until 12:01 a.m. ADT on June 5, 1984.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. The data upon which this notice is based is available for public inspection during business hours (8:00 a.m. to 4:30 p.m. ADT weekdays) at the NMFS Alaska Regional Office, Room, 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: James R. Wilson (Regional Economist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP), which governs this fishery in the FCZ, provides for adjustments of season and area openings and closures by field order, The FMP was developed by the North Pacific Fishery Management Council (Council) and implemented under the Magnuson Fishery Conservation and Management Act. Implementing rules at 50 CFR 674.23 (a) and (b) specify that these field orders will be issued by the Secretary of Commerce under criteria set out in those rules.

At the February, 1984, joint meeting with the Alaska Board of Fisheries (Board), the Council reviewed the results of the 1983 coastwide chinook salmon harvests and escapements to rivers of origin. Most natural stocks of chinook salmon remain depressed and escapements for these stocks remain well below established levels. The Council found that the decline in spawning escapements to most rivers was not halted in 1983 and the expectations for 1984 total stock abundance reflect a decline in population size from 1983.

The Board and the Council advised the Regional Director that the 1984 troll season for chinook salmon should be delayed until June 5, 1984, to limit the 1984 harvest. They took this action for the following reasons:

- Information on the 1983 harvests and escapements to rivers of origin indicate that the condition of chinook salmon stocks throughout their range is not improving as intended by the management strategy employed under the FMP. This is true not only for the natural chinook salmon stocks harvested off southeast Alaska whose spawning streams are outside the area, but also for those stocks which spawn in Alaska.
- It is known from previous experience that the effect of overall fishing effort during any coho-only season later in the summer contributes substantially to the incidental hooking and subsequent mortality of the chinook salmon.

The Regional Director has in turn determined, in accordance with §§ 674.23 (a) and (b) cited above, that: (1) The condition of chinook salmon in the management area is substantially different from the condition anticipated in the FMP, and (2) this difference requires the delayed opening of the season based on the consideration of factors listed below:

- Information presented to the Council on the current coatwide condition of chinook salmon stocks.
- Studies conducted since implementation of the FMP which indicate that most of the natural chinook stocks harvested off southeast Alaska are depressed and are in a continuing state of decline.
- A study by the Alaska Department of Fish and Game (ADF&G) indicating a 27 percent average mortality rate among chinook salmon hooked and released.
- Information indicating that postponement of the season opening will increase escapement of the depressed chinook stocks to rivers in southeast Alaska and spawning streams outside that area.

The Regional Director recommends that the opening date for the commercial fishery for chinook salmon in the FCZ off southeast Alaska be 12:01 a.m., ADT, on June 5, 1984. Additional inseason time or area adjustments may be in light of further information received during the ongoing fishery.

A delayed opening of the fishery from May 15 to June 5 will reduce the likelihood of overharvest of coastwide stocks of chinook salmon whose spawning streams are outside the southeast Alaska area. This delay will also allow more chinook salmon of southeast Alaska origin to escape to spawning streams, which should promote rebuilding of southeast Alaska stocks. This delay also will conserve chinook salmon by extending fishing time into a period when the coho salmon harvest will be ongoing, thus minimizing unnecessary discard and hooking mortality of incidentally-caught chinook salmon that would otherwise occur were a single species fishery for coho salmon to continue after the optimum yield for chinook salmon is achieved.

The final notice should become effective on May 15, 1984, after filing for public inspection with the Office of the Federal Register and publicizing for 48 hours through ADF&G procedures under § 674.23(b)(2). The Regional Director has determined, under 5 U.S.C. 553 (b) and (d), that the reasons justifying the field order make it impracticable and contrary to the public interest to provide advance notice and prior opportunity to comment for a full 30 days, or delay for 30 days the effective date of the order. If full comment and delay periods were provided, the chinook fishery off southeast Alaska would have to open on May 15 and remain open until the comment and delayed effectiveness periods were completed. This would defeat the purpose of this action, which is to eliminate pressure on chinook salmon stocks during late May and early June. However, an abbreviated advance comment period of 12 days is provided until [insert date 12 days after date of filing with the office of the Federal Register]. Comments are received during the 12-day comment period, will be considered in developing the final notice.

Other Matters

This action is taken under the authority of regulations specified at 50 CFR 674.23, and complies with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information request as defined in the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Fisheries.

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

Dated: April 25, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-11628 Filed 4-25-84; 11:08 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 85
Tuesday, May 1, 1984

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

Animal and Plant Health Inspection Service

[Docket No. 84-320]

Availability of Site-Specific Environmental Analyses for the USDA Cooperative Gypsy Moth Suppression and Regulatory Projects

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This gives notice of the availability of site-specific environmental analyses for proposed treatment areas in Kane and Lake Counties, Illinois; Bartholomew, Elkhart, Marion, and St. Joseph Counties, Indiana; Eaton and Menominee Counties, Michigan; Benton, Hennepin, and Washington Counties, Minnesota; Watauga County, North Carolina; Franklin and Lucas Counties, Ohio; Benton, Marion, and Multnomah Counties, Oregon; Johnson County, Tennessee; Montgomery and Patrick Counties, Virginia; King, Pierce, and Snohomish Counties, Washington; and Dane and Waukesha Counties, Wisconsin.

ADDRESSES: Copies of the site-specific environmental analysis for the proposed treatment area(s) in each State are available for public inspection in a State office in the State where the analysis was conducted. Addresses of these State offices are as follows:

Illinois Department of Agriculture, Division of Agriculture Industry Regulation, Bureau of Plant and Apiary Protection, 1010 Jorie Boulevard, Suite 20, Oakbrook, Illinois 60521;

Indiana Department of Natural Resources, Division of Entomology, 613 Indiana State Office Building, Indianapolis, Indiana 46204;

Michigan Department of Agriculture, Plant Industry Division, P.O. Box 30017, Lansing, Michigan 48909;

Minnesota Department of Agriculture, Division of Plant Industry, 90 West Plato Boulevard, St. Paul, Minnesota 55107;

North Carolina Department of Agriculture, Plant Industry Division, Plant Protection Section, P.O. Box 27647, Raleigh, North Carolina 27611;

Ohio Department of Agriculture, Division of Plant Industry, Reynoldsburg, Ohio 43068;

Oregon Department of Agriculture, Plant Division, Agriculture Building, Salem, Oregon 97310;

Tennessee Department of Agriculture, Division of Plant Industries, P.O. Box 40627, Melrose Station, Nashville, Tennessee 37204;

Virginia Department of Agriculture and Consumer Services, Plant Pest Control Section, Division of Product and Industry Regulation, 1100 Bank Street, Room 506, P.O. Box 163, Richmond, Virginia 23209;

Washington Department of Agriculture, Plant Industry Division, 406 General Administration Building, AX-41, Olympia, Washington 98504; and

Wisconsin Department of Agriculture, Trade and Consumer Protection, Plant Industry Division, 801 West Badger Road, Madison, Wisconsin 53708.

Copies are also available for public inspection at the Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION: The USDA draft Environmental Impact Statement for the Cooperative Gypsy Moth Suppression and Eradication Projects was submitted to the Environmental Protection Agency (EPA) on December 28, 1983. The public comment period for this document closed February 25, 1984. The final Environmental Impact Statement (EIS) was filed with the EPA on March 16, 1984, and a notice of availability of this document was published in the Federal Register on March 23, 1984 (49 FR 10963). The EIS discusses the national Gypsy Moth Suppression and Eradication Projects and notes that annual decisions concerning APHIS participation in eradication projects are made based on the results of site-specific environmental analyses prepared for the proposed treatment areas. A separate site-specific environmental analysis has been prepared for each of the following proposed treatment areas:

Illinois: approximately 150 acres in the counties of Kane and Lake;

Indiana: approximately 1505 acres in the counties of Bartholomew, Elkhart, Marion, and St. Joseph;

Michigan: approximately 200 acres in the counties of Eaton and Menominee;

Minnesota: approximately 88 acres in the counties of Benton, Hennepin, and Washington;

North Carolina: approximately 1200 acres in the county of Watauga;

Ohio: approximately 140 acres in the counties of Franklin and Lucas;

Oregon: approximately 11,560 acres in the counties of Benton, Marion, and Multnomah;

Tennessee: approximately 14,800 acres in the county of Johnson;

Virginia: 1725 acres in the counties of Montgomery and Patrick;

Washington: approximately 7415 acres in the counties of King, Pierce, and Snohomish;

Wisconsin: approximately 360 acres in the counties of Dane and Waukesha.

Each site-specific environmental analysis discusses the environmental effects of the program for those acres that are proposed to be treated in the respective State covered by the document. There are no unique characteristics or aspects of or within the proposed treatment areas or any treatment options discussed for possible use that would place any of these areas or treatment options outside the scope of considerations addressed in the EIS.

Done at Washington, D.C., this 26th day of April 1984.

Richard R. Backus,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-11861 Filed 4-30-84; 8:45 am]
BILLING CODE 3410-34-M

Federal Grain Inspection Service

Designation Renewal of Bloomington Grain Inspection Department (IL), Lubbock Grain Inspection and Weighing (TX), and Plainview Grain Inspection and Weighing Service, Inc. (TX)

AGENCY: Federal Grain Inspection Service, USDA

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Bloomington Grain Inspection Department (Bloomington), Lubbock Grain Inspection and Weighing (Lubbock), and Plainview Grain Inspection and Weighing Service, Inc. (Plainview), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: June 1, 1984.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The December 1, 1983, issue of the **Federal Register** (48 FR 54258) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Bloomington's, Lubbock's, and Plainview's designations terminate on May 31, 1984, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by January 3, 1984.

Bloomington, Lubbock, and Plainview were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the February 1, 1984, issue of the **Federal Register** (49 FR 4018). Comments were to be postmarked by March 19, 1984.

No comments were received regarding the designation renewal of Bloomington, Lubbock, and Plainview.

FGIS has evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), has determined that Bloomington, Lubbock, and Plainview are able to provide official services in the respective geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the December 1 **Federal Register** issue.

Effective June 1, 1984, and terminating May 31, 1987, the responsibility for providing official inspection services in their respective specified geographic areas are assigned to Bloomington, Lubbock, and Plainview.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following address:

Bloomington Grain Inspection Department, 1700 W. Olive Street, c/o Ralston Purina, P.O. Box 817, Bloomington, IL 61701.

Lubbock Grain Inspection and Weighing, 920 Avenue A, P.O. Box 675, Lubbock, TX 79408.

Plainview Grain Inspection and Weighing Service, Inc., 1100 North Broadway Street, P.O. Box 717, Plainview, TX 79072.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 20, 1984.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 84–11788 Filed 4–30–84; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Designation Applicants in the Areas Currently Assigned to Central Iowa Grain Inspection Service, Inc. (IA), Maine Department of Agriculture (ME), and Montana Department of Agriculture (MT)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Central Iowa Grain Inspection Service, Inc., Maine Department of Agriculture, and Montana Department of Agriculture.

DATE: Comments to be postmarked on or before June 15, 1984.

ADDRESS: Comments must be submitted in writing, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The March 1, 1984, issue of the **Federal Register** (49 FR 7617) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by April 2, 1984.

Central Iowa Grain Inspection Service, Inc., Maine Department of Agriculture, and Montana Department of Agriculture, the only applicants for each respective designation, requested designation for the entire geographic area currently assigned to each of those agencies.

In accordance with section 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than June 15, 1984.

Comments and other available information will be considered in making a final decision. Notice of the

final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 20, 1984.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 84–11789 Filed 4–30–84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants to Perform Official Services in the Geographic Areas Currently Assigned to Hastings Grain Inspection, Inc. (NE), and New York State Department of Agriculture and Markets (NY)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Hastings Grain Inspection, Inc., and New York State Department of Agriculture and Markets.

DATE: Applications to be postmarked on or before May 31, 1984.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, D.C. 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area. Hastings Grain Inspection, Inc. (Hastings), 306 East Park Street, Hastings, NE 68901, was designated under the Act as an official agency for the performance of inspection functions on November 1, 1981. New York State Department of Agriculture and Markets (New York), Building 8, State Campus, Albany, NY 12235, was designated under the Act as an official agency for the performance of inspection functions on October 1, 1981.

The agencies' designations will terminate on October 31, 1984. Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic areas presently assigned to Hastings, in the State of Nebraska, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the following:

Bounded on the North by the northern Nebraska State line from the Western Sioux County line east to the eastern Knox County line;

Bounded on the East by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest; the eastern Hamilton County line; the northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to State Highway 8; State Highway 8 west to County Road 1 mile west of U.S. Route 81; County Road south to southern Nebraska State line;

Bounded on the South by the Southern Nebraska State line, from County Road 1 mile west of U.S. Route 81, west to the western Dundy County line;

Bounded on the West by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux City County lines north to the northern Nebraska State line.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Hastings and are part of this geographic area assignment:

1. Farmers Cooperative Grain Company and Wagner Mills, Inc., Columbus, Platte County; and

2. Farmers Co-op and Dayton Dorn Grain Company, Big Springs, Deuel County.

The geographic area presently assigned to New York, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the entire State of New York, except those export port locations within the State.

Interested parties, including Hastings and New York, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of Section 7(f) of the Act and section 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning November 1, 1984, and ending October 31, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 20, 1984.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 84–11790 Filed 4–30–84; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Lewis and Clark National Forest Grazing Advisory Board; Meeting

The spring meeting of the Lewis and Clark National Forest Grazing Advisory Board, published 49 FR 17983, April 26, 1984, is re-scheduled for 5:30 p.m. on Monday, May 7, 1984, at the Ponderosa Inn, 220 Central Avenue, Great Falls, MT. The meeting will start with a social hour for getting acquainted with the new members of the Board. A no host dinner, from the menu, will follow at 6:30 p.m. The business meeting will follow the dinner.

The purpose of the meeting is to review the Lewis and Clark National Forest's range management program for

fiscal year 1984 and proposals for 1985. The revised noxious weed program and the Forest's proposal to reevaluate the noxious weed program for 1985 will be discussed at the meeting. Discussion will also be held on other topics of interest to the Board.

The meeting will be open to the public. Persons who wish to attend should notify George P. Raths, Chairman of the Board, P.O. Box 478, Roundup, Montana 59072, Phone 323–1084 or Wayne Phillips, Acting Secretary, Lewis and Clark National Forest, Box 871, Great Falls, Montana 58403, Phone 727–0901. Written statements may be filed with Board before or after the meeting.

Dated: April 23, 1984.

John D. Gorman,

Forest Supervisor, Lewis and Clark National Forest.

[FR Doc. 84–11730 Filed 4–30–84; 8:45 am]

BILLING CODE 3410–11–M

CIVIL RIGHTS COMMISSION

New York Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m., on May 24, 1984, at the Loews Summit Hotel, 51st and Lexington Avenue, New York, New York 10022. The purpose of this meeting is to monitor civil rights issues in Yonkers.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Honorable Robert J. Mangum, at (212) 420–3935 or the Eastern Regional Office at (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–11679 Filed 4–30–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

[Department Organization Order 10–3 Amdt. 5]

Department Organization Order; Under Secretary for International trade

Effective Date: July 1, 1983.

Department Organization Order 10–3, dated Februry 15, 1982 is hereby further amended as shown below. The purpose of this amendment is to delegate to the Under Secretary the Secretary's authority under Section 12(c) of the Export Administration Act.

Section 4. Delegation of Authority. Subparagraph 4.01h. is revised to read as follows:

"h. The Export Administration Act of 1979 (50 U.S.C app. 2401, *et seq.*) and the authority under the Act conferred on the Secretary under Executive Order 12214 of May 2, 1980, and Executive Order 12002 of July 7, 1977, except that:

"1. the submission of reports to the Congress required by section 14 of the Act shall be reserved to the Secretary; and

"2. the power, authority, and discretion to make the determination required by section 12(c):

"a. may not be delegated below the Assistant Secretary level;

"b. determinations with respect to the publication or disclosure of confidential information obtained under the Act pursuant to a request under the Freedom of Information Act (5 U.S.C. 552) shall be reserved to the Under Secretary for International Trade; and

"c. any determination under section 12(c) shall require the prior concurrence of the Office of the General Counsel."

Kay Bulow,

Acting Assistant Secretary for Administration.

[FR Doc. 84–11717 Filed 4–30–84 8:45 am]

BILLING CODE 3510–DK–M

[Department Organization Order 10–3 Amdt.]

Department Organization Order; Under Secretary for International Trade

Effective Date: September 15, 1983.

Department Organization Order 10–3, dated February 15, 1983 is hereby further amended as shown below. The purpose of this amendment is to establish the position of Deputy Assistant Secretary for Aerospace.

Section 3. Structure and Scope of Authority. a. In pen and ink, at the end of subparagraph .04e. delete the word "and". At the end of subparagraph .04f. delete the period and add "; and".

b. A new subparagraph .04g. is added to read as follows: "g. The Deputy Assistant Secretary for Aerospace."

Kay Bulow,

Acting Assistant Secretary for Administration.

[FR Doc. 84–11718 Filed 4–30–84; 8:45 am]

BILLING CODE 3510–DK–M

[Department Organization Order 10–3; Amdt. 8]

Department Organization Order; Under Secretary for International Trade

Effective Date: October 21, 1983.

Department Organization Order 10–3, dated February 16, 1982 is hereby further amended as shown below. The purpose of this amendment is to delegate the Secretary's authorities under Pub. L. 97–254, concerning the participation of the United States in the 1984 Louisiana World Exposition, to the Under Secretary for International Trade.

Section 4. Delegation of Authority. a. In pen and ink, at the end of subparagraph .01nn. delete the word "and." At the end of subparagraph .01oo. delete the period and add "; and".

b. A new subparagraph .01pp. is added to read as follows: "pp. The Act of September 8, 1982 (Pub. L. 97–254, 96 Stat. 808) regarding the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana."

Kay Bulow,

Acting Assistant Secretary for Administration.

[FR Doc. 84–11719 Filed 4–30–84; 8:45 am]

BILLING CODE 3510–DK–M

[Department Organization Order 10–3 Amdt.]

Department Organization Order; Under Secretary for International Trade

Effective Date: January 22, 1984.

Department Organization Order 10–3, dated February 16, 1982 is hereby further amended as shown below. The purpose of this amendment is to: (1) transfer to ITA certain functions previously performed by organizations reporting to the Under Secretary for Economic Affairs, (2) abolish the position of Deputy Assistant Secretary for Export Development and Deputy Assistant Secretary for Industry Projects, (3) establish the positions of Deputy Assistant Secretary for Basic Industries, Deputy Assistant Secretary for Capital Goods and International Construction, Deputy Assistant Secretary for Science and Electronics, Deputy Assistant Secretary for Automotive and Consumer Goods, and Deputy Assistant Secretary for Services and (4) delegate to the Under Secretary for International Trade, certain authorities previously delegated to the Director, Bureau of Industrial Economics.

1. *Section 3. Structure and Scope of Authority.* Paragraph .04 is revised to read as follows:

".04 The Assistant Secretary for Trade Development shall be assisted in carrying out his/her responsibilities by:

"a. The Deputy Assistant Secretary for Trade Development;

"b. The Deputy Assistant Secretary for Basic Industries;

"c. The Deputy Assistant Secretary for Capital Goods and International Construction;

"d. The Deputy Assistant Secretary for for Aerospace;

"e. The Deputy Assistant Secretary for Science and Electronics;

"f. The Deputy Assistant Secretary for Textiles and Apparel;

g. The Deputy Assistant Secretary for Automotive and Consumer Goods;

"h. The Deputy Assistant Secretary for Services;

"i. The Deputy Assistant Secretary for Trade Information and Analysis; and

"j. The Deputy Assistant Secretary for Trade Adjustment Assistance."

"2. *Section 4. Delegation of Authority.* In pen and ink, at the end of subparagraph .01pp. delete the word "and." At the end of subparagraph .01pp. delete the period and add "; and". New paragraphs .01qq. and .01rr. are added to read as follows:

"qq. Headnote 2, subpart B, part 6, schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) relating to the development, maintenance and publication of a list of bona fide motor-vehicle manufacturers, and authority to promulgate rules and regulations pertaining thereto under section 501(2) of Title V of the Automotive Products Trade Act of 1965 (19 U.S.C. 2031); and

"rr. Section 264 of the Trade Act of 1974 (19 U.S.C. 2354) relating to the studies and reports and information activities in response to investigations and findings of the International Trade Commission, except that reports to be submitted to the President shall be issued by the Secretary, and responsibility for assistance in preparation and processing of petitions and applications under subsection 264(c) shall be vested in the Assistant Secretary for Economic Development."

3. *Section 5. Functions.* Paragraph .01 is revised to read as follows:

".01 Promote U.S. exports and strengthen the international trade and investment position of the U.S.; develop, maintain and disseminate analyses and information (other than that information collected and provided by the Federal Statistical agencies) on domestic industrial sectors and on foreign economic and commercial conditions; provide trade adjustment assistance to industries, communities and firms adversely affected by imports; and assist U.S. exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service."

Kay Bulow,

Acting Assistant Secretary for Administration.

[FR Doc. 84-11720 Filed 4-30-84; 8:45 am]

BILLING CODE 3510-DK-M

[Department Organization Order 10-3; Amdt. 10]

Department Organization Order; Under Secretary for International Trade

Effective Date: March 4, 1984.

Department Organization Order 10-3, dated February 16, 1982 is hereby further amended as shown below. The purpose of this amendment is to establish the position of Deputy Assistant Secretary for Foreign Commercial Operations to assist the Director General of the U.S. and Foreign Commercial Service.

Section 3. Structure and Scope of Authority. Paragraph .05 is revised to read as follows:

".05 The Director General of the U.S. and Foreign Commercial Service shall be assisted in carrying out his/her responsibilities by the following:

"a. The Deputy Assistant Secretary for the U.S. and Foreign Commercial Service.

"b. The Deputy Assistant Secretary for Foreign Commercial Operations."

Kay Bulow,

Acting Assistant Secretary for Administration.

[FR Doc. 84-11721 Filed 4-30-84; 8:45 am]

BILLING CODE 3510-DK-M

International Trade Administration

[C-301-001]

Leather Wearing Apparel From Colombia; Final Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of suspension agreement.

SUMMARY: On January 26, 1984, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Colombia. The review covers the period July 1, 1982 through June 30, 1983.

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

EFFECTIVE DATE: May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 3232) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Colombia (46 FR 19963, April 2, 1981). The Department has now completed that review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Colombian men's, boys', women's, girls' and infants' leather coats and jackets, and other leather wearing apparel (such as vests, pants and shorts), as well as parts and pieces thereof. Such merchandise is currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. The review covers the period July 1, 1982 through June 30, 1983, and one program: the Tax Reimbursement Certificate Program ("CAT").

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are the same as the preliminary results. We determine that Confectiones Amazonas Orinoco ("CAO"), the predominant exporter of such Colombian apparel to the U.S., has complied with the terms of the suspension agreement for the period July 1, 1982 through June 30, 1983. CAO renounced all CAT benefits associated with exports of leather wearing apparel to the United States, did not accept substitute or equivalent benefits and met all of the reporting requirements of the agreement. CAO continued to

account for at least 85 percent of imports of all such Colombian leather wearing apparel into the United States.

Therefore, the suspension agreement for Colombian leather wearing apparel shall remain in effect. The Department is now beginning the next administrative review of the agreement.

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

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)), and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: April 25, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-11714 Filed 4-30-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-408-001]

Sodium Gluconate From the European Communities; Final Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of suspension agreement.

SUMMARY: On January 20, 1984, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities. The review covers the period June 1, 1982 through October 31, 1982.

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

EFFECTIVE DATE: May 1, 1984.

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

SUPPLEMENTARY INFORMATION:

Background

On January 20, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 2489) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities ("the EC") (46 FR 58132, November 30, 1981). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of the chemical sodium gluconate from the EC. Such merchandise is currently classifiable under item 437.5250 of the Tariff Schedules of the United States Annotated. The review covers the period June 1, 1982 through October 31, 1982 and two programs: (1) Production refunds, and (2) export restitution payments.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine that the signatories to the agreement have complied with its terms during the period of review.

Therefore, the suspension agreement for sodium gluconate from the EC shall remain in effect. The Department intends to begin immediately the next administrative review of the agreement.

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

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: April 25, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-11713 Filed 4-30-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Fishery Conservation and Management; Foreign Fishing Permit Applications

Correction

In FR Doc. 84-10858 beginning on page 17063 in the issue of Monday, April 23, 1984, make the following correction:

On page 17063, in the table near the bottom of the page, under the heading "Application No.", second line, "JA-84-0134" should have read "JA-84-1034".

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Controlling Imports of Certain Man-Made Fiber Apparel Products Produced or Manufactured in the Philippines; Correction

April 30, 1984.

On April 27, 1984 a notice was published in the **Federal Register** (49 FR 18150) concerning man-made fiber apparel products in Category 648, produced or manufactured in the Philippines. The date in line one of paragraph 3 of the letter to the Commissioner of Customs which followed that notice should be corrected to read, "April 27, 1984."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-11880 Filed 4-30-84; 10:19 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Modification to the Subject/Category Listing To Accompany the Armed Forces Discharge Review/Correction Boards Index

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

SUMMARY: This is a notice of a revision of the Subject/Category Listing to the Armed Forces Discharge Review/Correction Boards Index previously published in the **Federal Register** of October 13, 1978 (43 FR 47237). The purpose of the index is to assist those appealing to either the Discharge Review or the Correction Board. This revision reflects administrative and technical changes to the 1978 and should make the index more comprehensive and easier to use.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Colonel Thomas R. Cuthbert, JAGC, USA, Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), Washington, D.C. 20301, telephone (202) 697-3387.

SUPPLEMENTARY INFORMATION: The purpose of the Subject/Category Listing,

as recorded in the **Federal Register** of February 18, 1977 (42 FR 10028), is to assist those requesting a review by either the Discharge Review and/or Correction Board. The index allows the user to identify those cases whose circumstances are similar to a specific case; an individual can then determine the reasons for which the Board or the Secretary (or both) granted or denied relief. Minor changes have been made to the Subject/Category Listing since its last publication in the **Federal Register** as cited above. However, a complete revision is appropriate at this time as a means of incorporating the many administrative and technical changes that have occurred in the last 5 years. The new categories represent changes in discharge policies. Additionally, those issues that have appeared with increasing regularity and were not specified in the former index have been established as separate categories. The net result is that the revised index is more specific and should be of greater assistance to the user. The revision encourages the Boards to submit new categories to the Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management) Attn: JSRA for possible inclusion in a subsequent change.

Dated: April 25, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Subject/Category Listing To Accompany the Armed Forces Discharge Review and Correction Boards Index, February 1984

Foreword—February 84

This Consolidated listing is for use with the Armed Forces Discharge Review/Correction Boards Index.

Its purpose is to assign numerical codes to various "Reasons for Discharge" used in the review process. This includes issues raised by the applicant and those identified by the Board in arriving at its determination in discharge and other types of cases.

The consolidated index is divided into two sections: Section I contains those index numbers that are used for discharge review cases; Section II deals with those index numbers used in nondischarge review cases.

Section I has been modified since its original publication and is divided into two subsections. Subsection IA contains index numbers used by the boards prior to mid-1978; its inclusion in this revision is as a historical reference. This section of the Consolidated Index spans pages 4–20 and represents index numbers 001.00–099.99.

Section IB, the index in use today, has been used by the Discharge Review Boards since mid-1978. It incorporates the terminology contained in DOD Directive 1332.28, "Discharge Review Board (DRB) Procedures and Standards," dated 11 August 1982 and covers pages 21–46. It contains numerical codes A00.01–A99.99.

Astericks (**) mark those categories in Sections IB and II that are effected by this update. Suggestions for changes in the Subject/Category listing should be sent to the following address.

Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301.

This document is maintained and published by the DA Military Review Boards Agency as proponent agency for the Department of Defense. If you desire additional copies of this publication, their address is as follows: DA Military Review Boards Agency, SFBA, Room 1E487, The Pentagon, Washington, D.C. 20310.

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Section I—Discharge Case Index Numbers
A—Index Numbers used for cases reviewed prior to mid-1978 (Numerical codes 001.00–099.00)
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2—Explanation of the Revised Subject/Category Listing as it Relates to the Discharge Review Boards
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4—Revised Subject/Category Listing 1978 (Updated FEB 84)
5—Glossary
Section II—Nondischarge Case Index Numbers (Numerical codes 100.00–199.99)

Section 1A—Index Numbers Used to Index Discharge Cases Heard Prior to Mid-1978 (Numerical Codes 001.00–099.00)

Discharge Review Board Index

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(02.00) Abuse of Discretion
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(03.01) Command influence
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(06.00) Alcohol
(06.01) Alcoholism

(06.02) Alcohol-related offenses
(07.00) Arbitrary/Capricious Command Action
(07.01) Board actions
(07.02) Good of service discharge
(07.03) Expeditious trainee discharges
(07.04) Civil convictions discharges
(08.00) Article 32
(09.00) Article 138 Complaint
(10.00) AWOL
(10.01) Extenuating/mitigating factors—length
(10.02) Extenuating/mitigating factors—voluntary return
(10.03) Extenuating/mitigating factors—personal
(10.04) Unjustified
(10.05) Other

B

(11.00) Bad Conduct Discharge
(11.01) Equitableness of
(11.02) Legal sufficiency
(11.03) Other

C

(12.00) Civil Conviction
(12.01) Appellate process not completed
(12.02) Status changed subsequent to discharge
(12.03) Current standards
(13.00) Combat Duty
(14.00) Combat Service
(14.01) Board actions
(14.02) Good of service discharges
(14.03) Civil conviction discharges
(15.00) Confession
(15.01) Proper and adequate
(15.02) Article 31
(16.00) Conscientious Objection
(16.01) Board actions
(16.02) Good of service discharges
(17.00) Conscientious objector
(17.01) Proper and adequate denial
(17.02) Improper and inadequate denial
(17.03) Eligible
(17.04) No application
(76.00) Convenience of the Government
(18.00) Conviction by Civilian/Foreign Court
(18.01) Aggravating—nature of offense
(18.02) Aggravating—sentence
(18.03) Extenuating/mitigating—nature of offense
(18.04) Extenuating/mitigating—sentence
(18.05) Extenuating/mitigating—drugs
(18.06) Extenuating/mitigating—alcohol related
(18.07) Extenuating/mitigating—pardon
(18.08) Rights
(18.09) Status change subsequent to discharge
(18.10) Other
(19.00) Counseling
(19.01) Improper or inadequate
(19.02) No opportunity
(73.00) Courts Martial
(73.01) Conviction/special
(73.02) Conviction/summary
(73.03) Due process error
(73.04) Inadequate/improper counsel

D

(20.00) Demotion Board
(21.00) Desertion
(22.00) Discharge Based on Conduct Previously Considered at Administrative/Judicial Process
(22.01) Board actions
(22.02) Good of service discharges
(23.00) Discharge for Good of the Service (Chapter 10)
(23.01) Counseling
(23.02) Procedural error
(23.03) Record of service overall
(24.00) Discrimination
(24.01) Institutional
(24.02) Racial
(24.03) Other
(25.00) Drugs/Possession
(25.01) Aggravation
(25.02) Extenuating, mitigating, aggravating factors
(25.03) Intent to sell inferred
(25.04) Investigative
(25.05) Laird Memo
(25.06) Limited privileged communications program
(25.07) Post-Laird
(25.08) Pre-Laird
(25.09) Sale/transfer/trafficking
(25.10) Treatment
(25.11) Type, quantity
(25.12) Urinalysis
(25.13) Use/possession
(25.14) Other
(26.00) Drug Sale
(26.01) Extenuating, mitigating, aggravating factors
(26.02) Versus more transfer/agent
(26.03) Other

E

(27.00) Enlistment
(27.01) Enlistment contract—proper and adequate
(27.02) Enlistment contract—breach of
(27.03) Erroneous
(27.04) Other
(28.00) Erroneous Entry
(28.01) Enlistment
(28.02) Induction
(29.00) Executive Clemency
(30.00) Expeditious Discharge
(30.01) Offered counseling
(30.02) Procedural error
(30.03) Record of service overall
(75.00) Expiration of Required Service

F

(31.00) Failure to Pay Debts
(31.01) Dishonorable intent
(31.02) Lack of evidence of dishonorable intent
(32.00) First Amendment
(32.01) Free speech
(32.02) Free assembly
(32.03) Free religion
(32.04) Free political activities
(33.00) Fraudulent Entry
(33.01) Civil record
(33.02) Drug
(33.03) Homosexual
(33.04) Medical disqualifications
(33.05) Mental disqualifications
(33.06) Age
(33.07) Recruiter connivance
(33.08) Prior service
(33.09) Counseling
(33.10) Procedural error
(33.11) Service record overall

G

(34.00) General Misconduct
(34.01) Absenteeism and desertion
(34.02) Bad conduct discharge by special court-martial
(34.03) Civil court disposition
(34.04) Drug abuse
(34.05) Failure to pay just debts
(34.06) Failure to support dependents
(34.07) Fraudulent enlistment
(34.08) Frequent involvement—civil or military
(34.09) Resignation and discharge for the good of the service
(34.10) Sexual perversion
(34.11) Shirking—established pattern

H

(35.00) Hardship
(35.01) Financial
(35.02) Marital/family
(35.03) Medical
(36.00) Homosexuality
(36.01) Aggravating factors—minor
(36.02) Aggravating factors—force
(36.03) Aggravating factors—non-discreet
(36.04) Extenuating/mitigating factors—youth
(36.05) Extenuating/mitigating factors—isolated
(36.06) Extenuating/mitigating factors—off-base
(36.07) Extenuating/mitigating factors—off-duty
(36.08) Extenuating/mitigating factors—treatment
(36.09) Extenuating/mitigating factors—duress
(36.10) Extenuating/mitigating factors—consenting adults
(36.11) Proper processing
(36.12) Improper processing
(36.13) Tendencies
(36.14) Isolated incidents
(36.15) Confirmed
(36.16) Counseling
(36.17) Procedural error
(36.18) Service record overall

(36.19) Other
(36.20) Current standards
(37.00) Humanitarian Reasons

I

(38.00)

J

(39.00)

K

(40.00)

L

(41.00)

M

(42.00) Medical
(42.01) Treatment
(42.02) Qualifications
(43.00) Medical Discharge
(44.00) Medical Problems
(44.01) Organic
(44.02) Psychiatric
(45.00) Minority Discharge

N

(46.00) Nonfulfillment of Service Contract
(46.01) Board actions
(46.02) Good of service discharges
(74.00) Non-Judicial Punishments
(74.01) Article 15

O

(47.00) Officers
(47.01) Administrative Discharge—Unfitness (Comm)
(47.02) Administrative Discharge—Unacceptable Conduct (Comm)
(47.03) Administrative Discharge—In interest of national security (Comm)
(47.04) Administrative Discharge—Other (Comm)
(47.05) Elimination—Substandard performance of duty (Comm)
(47.06) Elimination—Moral or professional dereliction (Comm)
(47.07) Administrative Separation—Resignation (Comm and WO)
(47.08) Administrative Separation—Resignation in lieu of other action (Comm and WO)
(47.09) Administrative Separation—Resignation for good of service (Comm and WO)
(47.10) Administrative Separation—Discharge upon application (Comm and WO)
(47.11) Administrative Separation—Pregnancy (Comm and WO)
(47.12) Administrative Separation—Involuntary discharge (Comm and WO)
(47.13) Administrative Separation—Vacation of appointment (Comm and WO)
(47.14) Administrative Separation—Dropped from the rolls (Comm and WO)
(47.15) Administrative Separation—Release from extended active duty/voluntary and upon expiration of term of service (Comm and WO)
(47.16) Administrative Separation—Release from extended active duty (Comm and WO)
(47.17) Expiration of required service
(48.00) Outside Pressure
(48.01) Board actions
(48.02) Good of service discharges
(48.03) Civil conviction discharges

P

(49.00) Personal Problems
(49.01) Board actions
(49.02) Good of service discharges
(49.03) Civil conviction discharges
(40.04) Expeditious discharges
(50.00) Post Service Conduct
(50.01) Aggravating
(50.02) Board actions
(50.03) Civil conviction discharges
(50.04) Good of service discharges
(50.05) Expeditious discharges
(50.06) Mitigating
(51.00) Procedural/Legal Error
(51.01) Board actions
(51.02) Good of service discharges
(51.03) Expeditious/trainee discharges
(51.04) Civil conviction discharges
(52.00) Project 100,000
(53.00) Promises/Threats/Intimidation
(53.01) Chain of command
(53.02) Peers
(53.03) Recruiter
(53.04) Defense counsel

Q

(54.00) Qualitative Management Program

R

(55.00) Racial Discrimination
(56.00) Record of Service Overall
(56.01) Board actions
(56.02) Good of service discharges
(56.03) Civil conviction discharges
(56.04) Expeditious discharges
(57.00) Rehabilitation
(57.01) Not waived
(57.02) Failure
(58.00) Religious Discrimination
(59.00) Request for Discharge for the Good of the Service

S

(60.00) Search & Seizure
(61.00) Selective Reenlistment Program
(62.00) Stacking of Offenses
(62.01) Board actions
(62.02) Good of the service discharges

T

(63.00) Trainee Discharge Program
(63.01) Counseling
(63.02) Procedural errors
(64.00) TWSR

U

(65.00) Unfitness (See General Misconduct)
(66.00) Unsuitability
(66.01) Alcohol abuse
(66.02) Apathy, defective attitude, and inability to expend effort constructively
(66.03) Financial irresponsibility
(66.04) Homosexual or other aberrant tendencies
(66.05) Character and behavior disorders (personality disorders)
(66.06) Inaptitude
(66.07) Personal abuse of drugs
(66.08) Personality disorder
(66.09) Unsanitary habits
(66.10) Unspecified

V

(67.00) Vietnam—Special Discharge Review Program
(67.11) Tour in Southeast Asia or Western Pacific
(67.12) Wounded in combat
(67.13) Decorated for valor/merit
(67.14) Previous Honorable Discharge
(67.15) Satisfactorily served 24 months prior to discharge
(67.16) Completed alternate service or was excused in accordance with Presidential Proclamation 4313
(67.21) Age, aptitude, length of service at the time of discharge
(67.22) Education level
(67.23) Deprived background
(67.24) Personal distress
(67.25) Waiver to enlist
(67.26) Conscience
(67.27) Drugs of alcohol
(67.28) Good citizenship
(67.29) Other factors
(67.31) Discharged for act(s) of violence
(67.32) Discharged for act(s) of dishonor
(67.33) Discharged for desertion in or from combat theater
(67.34) Discharged for offense(s) subject to civilian criminal prosecution
(67.40) President Ford Memo 19 January 1977.

W

(68.00)

X

(69.00)

Y

(70.00)

Z

(71.00)

Note.—Numbers 72.00–99.00 have been reserved for future use, if required, by the DRB.

Section 1B—Index Numbers Used To Index Discharge Cases Reviewed After Mid-1978 (Numerical Codes A00.01–A99.99)

Outline to the Revised Subject/Category Listing

Propriety Considerations

Part A Common Elements to All Discharges
Index Numbers (A01.00–A01.36)
Part B Common Elements to Discharge Where SM Has Right to Board Hearing
Index Numbers (A02.00–A02.32)
Part C Reasons For Discharge and Specific Elements Pertaining to These Discharges
Index Numbers (A03.00–A84.00)
Part D Specifically Retroactive Policy Changes
Index Numbers (A85.00–A89.00)

Equity Considerations

Part E Policy Changes Not Specifically Retroactive
Index Numbers (A90.00–A91.06)
Part F Quality of Service
Index Numbers (A92.00–A92.32)
Part G Capability to Serve
Index Numbers (A93.00–A93.30)
Part H Other Equitable Considerations
Index Numbers (A94.00–A98.00)

Other Considerations

Part I Administrative Actions Indirectly Related to Discharge
Index Numbers (A99.00–A99.16)
Part J Special Programs
Index Numbers (A00.00–A00.58)

Explanation of the Revised Subject/Category Listing as It Relates to the Discharge Review Boards

The revised Subject/Category listing (S/CL) incorporates the Discharge Review standards with those which resulted from the *Urban Law* litigation and subsequent changes in DoD Directive 1332.28, "Discharge Review Board (DRB) Procedures and Standards." The most recent changes to the S/CL are marked with an asterisk (*).

The current S/CL which pertains to the DRB's is divided into ten parts: Parts A through D relate to Propriety Considerations; Parts E through H relate to Equity Considerations; and Parts I through J relate to Other Considerations and Special Programs. For further explanation of these parts, see the comments contained on page 25.

The index reference numbers have been assigned for easy use. The letter "A" precedes each index number to indicate that it is from the revised S/CL (after mid-1978).

(a) Reasons for Discharge are indicated by "major digits" A03.00–A84.00.

(b) Specific Procedural Elements unique to a particular Reason of Discharge are indicated by the "major digit" assigned that reason and "minor digits" reflecting the *Specific Procedural Elements, e.g. A03.08, A70.04.*

(c) Procedural Elements Common to All Discharges begin with the "major digit" A01 and are further categorized by "minor digits," e.g. A01.02 or A01.11.

(d) Procedural Elements Common to All Discharges Where the Servicemember has a Right to a Board Hearing begin with the "major digit" A02. and are further categorized by "minor digits," e.g. A02.02 or A02.13.

(e) All Equity Considerations are reflected by the "major digits" A90.–A94. and are further categorized by "minor digits," e.g. A92.03 or A93.14.

(f) Contentions or Issues Addressed Which Concern the Propriety of Administrative Actions indirectly related to the discharge process *but which may reflect on the equity* of the process begin with the "major digit" A99. and are further categorized by "minor digit," e.g. A99.01 or A99.08.

(g) All considerations under Special Programs concerning discharge review are indicated by the "major digit" A00. and further are categorized by "minor digits" e.g. A00.21, A00.14.

For example, in the Computer Printout (Part I of the Index) you might see under the headings the following:

EXAMPLE

REASON FOR DISCHARGE

A03.00

ISSUES ADDRESSED

A01.10, A03.03, A92.02, A93.07, A93.22

A01.10 — Common Element

A92.02, A93.07, A93.22 — Equity Considerations

A03.03 — Specific Procedural Regm't Pertaining to the Discharge

Index numbers from S/CL corresponding to *Reason For Discharge* and *Issues Addressed* in Example above:

(A03.00) Discharge for Expiration of Term of Service (ETS)
(A01.09/10) Characterization Based in part on Prior Service
(A03.03/04) Personal Decorations During Current Service Not Considered
(A92.01/02) Conduct and Efficiency Ratings
(A93.07/08) Marital/Family Problems
(A93.21/22) Medical/Physical Problems

The Subject/Category Listing uses a slash to indicate that two numbers have been assigned to a particular issue, e.g. A03.03/04 indicates either A03.03 or A03.04. The *even* numbers indicate *favorable* consideration by the Board concerning a standard of equity (A92.02) or that a claim of impropriety was *valid.* (A01.10) An *odd* number indicates *unfavorable* consideration of equity (93.07) or that a claim of impropriety was *invalid* (A03.03).

Board Members should code not only the Reason For Discharge and Issues raised, but all areas of consideration which provided the basis for their decision. To enable an applicant to determine which Issue addressed provided the principal reason for the Board's decision, an index reference number assigned to that reason should, whenever possible, be the first number entered under ISSUES ADDRESSED.

For PROPRIETY CONSIDERATIONS, a number relating to a specific

procedural error will be entered first (see A01.10)

For EQUITY CONSIDERATIONS, a number relating to a broad area of EQUITY, e.g. A93.00 may be appropriate, especially in those cases where more than one Equity consideration provided the basis for the decision.

Explanation of Parts Relating to the Discharge Review Portion of the Subject/Category Listing

Part A—relates to propriety issues common to all discharges.

Part B—relates to propriety issues common to all discharges where the servicemember has a right to a hearing before a Board of Officers.

Part C—index reference numbers assigned to specific Reasons for Discharge—under each reason, the considerations of propriety unique to that discharge.

Part D—Two policy changes that have been made expressly retroactive.

Part E—relates to procedural changes which past applicants have suggested represent a substantial enhancement of rights and which, if applied retroactively, would result in a more favorable characterization of discharge. This Part also includes index reference numbers which relate to policy changes concerning the characterization of discharge a Servicemember can or must receive when separated for a particular reason.

Part F—Equitable Considerations relating to a former servicemember's Quality of Service.

Part G—Equitable Considerations relating to a former servicemember's Capability to Serve.

Part H—Equitable Considerations which do not clearly fall within one of the parts above.

Part I—relates to considerations of impropriety in administrative actions indirectly related to the discharge process but which may reflect on the equity of that process.

Part J—relates to Special Programs for discharge review.

Section 1—Revised Subject/Category Listing (1978), Updated February 1984, Propriety Considerations

Part A—Common Elements Throughout the Discharge Process

(A01.01/02) Separation action *not* properly initiated
(A01.03/04) SM *not* properly notified of separation action
(A01.05/06) Improper physical examination at separation
(A01.07/08) Discharge authority *not* proper
(A01.09/10) Characterization based in part on prior service
(A01.11/12) Characterization based in part on pre-service record
(A01.13/14) Evidence in record does *not* support reason for discharge
(A01.15/16) SM *not* separated within reasonable time after approval
(A01.17/18) JAG's (Legal) review, when required, defective
(A01.19/29) SM's ratings/grades were *not* properly calculated or administered
(A01.21/22) Evidence obtained in violation of Article 31 UCMJ, (Self Incrimination) improperly considered
(A01.23/24) Evidence obtained from unlawful search improperly considered
(A01.25/26) Herasay evidence improperly considered
(A01.27/28) Unsworn testimony or statements improperly considered
(A01.29/30) Exempt evidence (alcohol/drug rehabilitation program) improperly considered
(A01.31/32) Other evidence improperly considered, including defective records of disciplinary offenses
(A01.33/34) Discharge Under Conditions Other Than Honorable of inactive reservist based upon civilian misconduct found not to have affected directly the performance of military duties
(A01.35/36) Discharge with a General Discharge of inactive reservist based upon civilian misconduct found not to have an adverse impact on the overall effectiveness of the military morale and efficiency.
**(A01.37/38) No counsel provided
**(A01.39/40) Inadequate counsel
**(A01.41/42) No board of officers
**(A01.43/44) Presumption of regularity (Incomplete record)
**(A01.45/46) Other [Submit category/issue to: Administrative Director Joint Service Review Activity OASD(MI&L) (MP&FM) Washington, D.C. 20301]

Part B—Elements Common to Discharges Where SM Has Right to Board Hearing

(A02.01/02) Commander's report improper
(A02.03/04) SM *not* properly notified of right to request board hearing
(A02.05/06) SM *not* properly notified of right to submit statement
(A02.07/08) Improper Counsel for consultation
(A02.09/10) Waiver of board hearing *not* proper
(A02.11/12) Improper denial of request for board hearing
(A02.13/14) Improper composition of board
(A02.15/16) Improper counsel for representation
(A02.17/18) Ineffective assistance of counsel
(A02.19/20) Request for witness improperly denied
(A02.21/22) Command intervention (influence) improper
(A02.23/24) Improper denial of request to personally appear
(A02.25/26) Recommendation of board improper
(A02.27/28) Discharge authority's approval improper in light of board recommendation
(A02.29/30) Withdrawal of waiver not properly considered
(A02.31/32) Improper vacation of suspended administrative discharge.
**(A02.33/34) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]

Part C—Reasons for Discharge and Specific Elements Pertaining to These Discharges

(A03.000) *Discharge for Expiration of Term of Service/Enlistment (ETS)*
(A03.01/02) SM member did meet regulatory criteria for Honorable Discharge
(A03.03/04) Personal decoration during current service *not* considered
(A03.05/06) Characterization based on isolated acts of indiscipline
(A03.07/08) Characterization based on mental status or other medical evaluation
(A03.09/10) Characterization improperly changed by commanding officer of transfer activity, and appropriate entries *not* made in file showing reason
(A04.00) *Discharge for Convenience of Government (Best Interest of the Service) (See specific categories A05.—A30. below)*
(A05.00) Reduction in strength (Service manpower)
(A06.00) Erroneous induction or enlistment
(A07.00) Early separation under directed programs
(A08.00) Discharge on basis of alien status
(A09.00) Lack of jurisdiction
(A10.00) Sole surviving son/daughter or family member
(A11.00) Concealment of arrest record
(A12.00) Secretarial authority
(A13.00) Discharge for obesity
(A14.00) Discharge for motion/travel sickness
(A15.00) Inability to perform duties due to parenthood

(A16.00) Discharge to accept commission
(A17.00) Discharge for enlistment/reenlistment
(A18.00) Physically disqualified for Officer Candidate School
(A19.00) SM erroneously delivered punitive discharge before review final
(A20.00) Discharge for allergy to clothing
(A21.00) SM serving constructive enlistment with defective contract
(A22.00) Discharge for pregnancy or marriage
(A23.00) Discharge for conscientious objection
**(A24.00) Marginal performer discharge (EDP/QMP): Non-trainee (1 Sep 73–30 Sep 82)
(A24.01/02) SM *not* properly counseled by command
(A24.03/04) SM met required standards of performance after award of MOS
(A24.05/06) SM *not* in unit from which separated for required period of time
(A24.07/08) SM did *not* consent to discharge
(A24.09/10) Improper counsel for consultation (when required)
(A24.11/12) Statement submitted *not* considered
(A24.13/14) Not separated within specified period of time in service
**(A25.00) Marginal performer discharge (TDP): Trainee (1 Sep 73–30 Sep 82)
(A25.01/02) SM *not* discharged within required period of time after enlistment
(A25.03/04) Trainee discharge *not* properly characterized as honorable
(A25.05/06) Trainee discharge *not* properly counseled by command before discharge
(A25.07/08) Statement/rebuttal submitted *not* considered
(A26.00) Substandard performance/behavior (Petty Officer)
(A27.00) Substandard performance/behavior (Non-Petty Officer)
(A28.00) Condition/medical disability which interferes with performance of duties, not a physical disability
**(A29.00) Entry level separation
**(A29.01/02) Member *not* properly counseled/rehabilitated by command before separation
**(A29.03/04) Member *not* discharged within 180 days of AD/LADT
**(A29.05/06) Member *not* separated within three duty days after approval by separation authority
**(A29.07/08) Statement/rebuttal *not* considered
**(A30.00) Convenience of the Government
**(A30.01/02) Parenthood
**(A30.03/04) Other designated physical or mental condition
**(A30.05/06) Review action
**(A30.07/08) Conduct adverse to the best interest of the service
(A31.00) Discharge for physical disability
(A32.00) Discharge (Characterization) as a result of DRB action
(A33.00) Discharge (Characterization) as a result of other official board action (e.g. clemency & parole, correction of military records)
(A34.00) Discharge for minority
(A35.00) Discharge for dependence or hardship
(A36.00) Discharge for security reasons
**(A37.00) Discharge in the interest of national security
**(A38.00) Failure in prisoner retraining
(A39.00)
(A40.00) *Discharge for unsuitability (See specific categories (A40.–A48. below)*
(A40.01/02) Counseling requirements *not* met or waived
(A40.03/04) Rehabilitative requirements *not* met or waived
(A40.05/06) Mental status evaluation (when required) *not* conducted
(A40.07/08) Requested psychiatric or psychological report *not* conducted
(A41.00) Inaptitude
(A42.00) Personality disorder (Old character & behavior disorder)
(A42.01/02) Neuropsychiatric (NP) evaluation *not* proper/present
(A43.00) Apathy
(A44.00) Enuresis
(A45.00) Alcohol abuse
(A46.00) Homosexual tendencies
(A46.01/02) No verified record of homosexual acts prior to or during service
(A46.03/04) Did *not* exhibit, profess or admit to homosexual tendencies
(A46.05/06) Psychiatric/psychological evaluation (when required) *not* performed
(A47.00) Financial irresponsibility
(A48.00) Unsanitary habits
**(A49.00) Discharge for unsatisfactory performance
**(A49.01/02) Counseling and rehabilitation requirements *not* waived
**(A49.03/04) Notification requirements *not* met
**(A49.05/06) Mental status evaluation or psychiatric evaluation report (if applicable) *not* conducted
**(A49.07/08) Medical examination (if applicable) *not* conducted
**(A49.09/10) Statement/rebuttal *not* considered
(A50.00) *Discharge for unfitness (see specific categories A51.–A58. below)*
(A50.01/02) Counseling requirements *not* met or waived
(A50.03/04) Rehabilitative requirements *not* met or waived
(A50.05/06) Mental status evaluation (when required) *not* conducted
(A50.07/08) Requested psychiatric or psychological report *not* conducted
(A51.00) Frequent involvement with civil or military authorities
(A52.00) Sexual perversion
(A53.00) Drug use, sale, or possession
(A54.00) Established pattern of shirking
(A55.00) Established pattern of failure to pay debts
(A56.00) Established pattern of failure to support dependents
(A57.00) Homosexual acts
(A57.01/02) No confirmed proposal, solicitation, attempt or performance of homosexual acts
(A57.03/04) Isolated incident stemmed from immaturity, curiosity or intoxication
(A57.05/06) Psychiatric/psychological evaluation (when required) *not* conducted
(A58.00) Unsanitary habits
**(A59.00) Discharge for homosexuality.
**(A59.01/02) Notification requirements *not* met
**(A59.03/04) Mental status evaluation *not* conducted
**(A59.05/06) Statement/rebuttal *not* considered
**(A59.07/08) With subordinate
**(A59.09/10) Location subject to military control
**(A59.11/12) For compensation
**(A59.13/14) With person under 16 years of age
**(A59.15/16) Openly in public view
**(A59.17/18) With use of force, coercion, or intimidation
**(A59.19/20) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]
(A60.00) *Discharge for Misconduct (See specific categories A61.–A67. below*
(A61.00) Conviction by civil authorities (Foreign or domestic)
(A61.01/02) No Conviction which met UCMJ punishment standards
(A61.03/04) Discharged before appeal action completed
(A61.05/06) Discharge *not* in accordance with policy for Non-U.S. convictions
(A61.07/08) Mental status evaluation (when required) *not* conducted
(A61.09/10) Improper discharge after constructive waiver
(A61.11/12) Misconduct of inactive reservist discharged under other than honorable conditions based upon civilian misconduct found *not*

to have affected directly the performance of military duties.
(A61.13/14) Misconduct of inactive reservist discharged under honorable conditions based upon civilian misconduct found *not* to have had an adverse impact on the overall effectiveness of the military morale and efficiency
**(A61.15/16) Seriousness of offense
(A62.00) Fraudulent enlistment
(A62.01/02) Fraudulent entry not substantiated
(A62.03.04) Mental status evaluation (when required) *not* conducted
(A62.05/06) Recruiter misconduct
(A63.00) Prolonged unauthorized absence (extended AWOL/desertion)
(A63.01/02) Unauthorized absence (AWOL/desertion) *not* continuous 1 year or more
(A63.03/04) Mental status evaluation (when required) *not* conducted
(A64.00) Frequent involvement with civil or military authorities (See procedural elements under unfitnesss A50.01–08)
**(A64.01/02) Criteria for under other than honorable conditions (UOTHC/UOHC) *not* met
(A65.00) Homosexual acts (See procedural elements under unfitness A50.01–98; and A5701–06)
(A66.00) Drug abuse (See procedural elements under unfitness A50.01–08
**(A67.00) Acts or patterns of misconduct
**(A67.01/02) Minor disciplinary infractions
**(A67.03/04) Serious offense (civil or military)
**(A67.05/06) Pattern or misconduct
**(A67.07/08) Illegal use of drugs
(A68.00) Bad Conduct Discharge (BCD)
(A68.01/02) BCD not affirmed on appellate review
**(A68.03/04) Seriousness of offense
(A69.00) Discharge for alcohol/drug rehabilitation failure
(A69.01/02) SM was *not* rehabilitative failure
(A69.03/04) SM was discharged prior to minimal treatment
(A69.05/06) Discharge *not* properly characterized as honorable
(A69.07/08) Improper counsel for consultation
(A70.00) *Request for discharge for good of service (GOS) for conduct which rendered SM triable by CM (See specific categories A71.–A77. below*
(A70.01/02) Charges not preferred
(A70.03/04) Offense charged, not punishable by a "Punitive Discharge"
(A70.05/06) SM did not request for GOS discharge
(A70.07/08) SM not properly counseled by attorney
(A70.09/10) Request for withdrawal of GOS discharge not processed/considered
(A70.11/12) SM could not knowingly request GOS discharge at the time
(A70.13/14) No UCMJ jurisdiction over the person
(A70.15/16) No UCMJ jurisdiction over the offense
**(A70.17/18) Seriousness of charge(s)
(A71.00) Conduct triable by CM: AWOL
**(A70.01/02) Conduct triable by CM: Absent from appointed place of duty
**(A70.03/04) Conduct triable by CM: Missing movement
(A72.00) Conduct triable by CM: Larceny
(A73.00) Conduct triable by CM: Assault
(A74.00) Conduct triable by CM: Drugs
(A75.00) Conduct triable by CM: DOLO
(A75.01/02) Conduct triable by CM: Dereliction of duty
(A75.03/04) Conduct triable by CM: Sleeping on duty
(A76.00) Conduct triable by CM: Disrespect
(A76.01/02) Conduct triable by CM: Making a false official statement
**(A77.00) Conduct triable by CM: Homosexuality
(A78.00) Discharge for Inaptitude or unsuitability (Discharges prior to April 1959)
(A79.00) Discharge for undesirable habits or traits (Discharges prior to April 1959)
(A80.00) Officer resignation
(A80.01/02) Officer did *not* tender resignation
(A80.03/04) No elimination action initiated, when required
(A80.05/06) Request *not* forward to military department by GCM authorities
(A81.00) Officer elimination
(A82.00) Officer expiration of term of service
**(A83.00) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]
**(A84.00) Discharge for unsatisfactory participation/attendance at drills/meetings
**(A84.01/02) Member *not* properly notified by command before separation
**(A84.03/04) Statement/rebuttal submitted *not* considered

Part D—Policy Changes Made Specifically Retroactive

(A85.00) Drug use/possession (Laird Memorandum)
(A85.01/02) Discharge based solely on drug related conduct
(A85.03/04) Discharge based solely drug on use/possession
(A85.05/6) Discharge based on sale, but mere conduit theory applies
(A85.07/08) Service record otherwise satisfactory
(A86.00) Personality Disorder (Old character and behavior disorder)
(A86.01/02) No NP evaluation
(A86.03/04) No NP evaluation diagnosing a personality disorder
(A86.05/06) No evaluation *not* conducted by proper medical authority
(A86.07/08) No clear and demonstrable reason for a less than honorable discharge
**(A87.00) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]
(A88.00)
(A89.00)

Equity Considerations (Contentions, Issues or Considerations)

Part E—Policy Changes Not Specifically Retroactive

(A90.00) *Procedural*
(A90.01/02) Formal notification of separation action
(A90.03/04) Opportunity to respond (e.g. Submit statements)
(A90.05/06) Opportunity for a board hearing
(A90.07/08) Right to lawyer for consultation
(A90.09/10) Right to lawyer for representation
(A90.11/12) Opportunity to examine cross-examine witness(es)
**(A90.13/14) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]
(A91.00) *Policy*
(A91.01/02) Character of discharge received by SM is not now authorized or required when a SM is discharged for the same reason or conduct
(A91.03/04) Conduct for which SM was discharged no longer provides an authorized basis for separation
**(A91.05/06) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]

Part F—(A92.00) Quality of Service

(A92.01/02) Conduct and efficiency ratings

(A92.03/04) Awards and decorations
(A92.05/06) Letter of commendation
(A92.07/08) Combat service
(A92.09/10) Wounds received in action
(A92.11/12) Record of promotions
(A92.13/14) Rank/responsibility level at which SM served
(A92.15/16) Other acts of merit
**(A92.17/18) Date and period of service which is subject of DRB review; Length and quality of service under review
(A92.19/20) Prior (Honorable) military service
(A92.21/22) Post service conduct (Good citizenship)
**(A92.23/24) Record of non-judicial punishment
**(A92.25/26) Record of Court(s)-martial convictions
**(A92.27/28) Record of conviction(s) by civil authorities while in service and part of service record
**(A92.29/30) Record of unauthorized absences
**(A92.31/32) AWOL, extended or multiple unauthorized absences
**(A92.33/34) Record of confinement or other lost time
**(A92.35/36) Offenses of isolated/minor nature
**(A92.37/38) Guilty of offense
**(A92.39/40) Uncorroborated drug abuse charges
**(A92.41/42) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]

Part G—(A93.00) Capability to Serve (Factors Which Could Impair Ability to Serve)

(A93.01/02) Age and maturity
(A93.03/04) Aptitude (Scores and education)
(A93.05/06) Deprived background
(A93.07/08) Marital/family problems
(A93.09/10) Personal problems
(A93.11/12) Financial problems
(A93.13/14) Discrimination: Religious
(A93.15/16) Discrimination: Racial
(A93.17/18) Drugs
(A93.19/20) Alcohol
(A93.21/22) Medical/physical
(A93.23/24) Psychiatric/psychological problems (may include situational maladjustment)
(A93.25/26) Matters of conscience
(A93.27/28) Waiver of moral standards for enlistment
**(A93.29/30) Counseling (by command, chaplain, etc.)
**(A93.31/32) Other [Submit category/issue to: Administrative Director, Joint Service Review Activity, OASD(MI&L) (MP&FM), Washington, D.C. 20301]

Part H—(A94.00) Other Equitable Considerations

(A94.01/02) Severity of punishment (Civil or military): Current standards
(A94.03/04) Inaptitude ("Would but couldn't")
(A94.05/06) Too harsh: At issuance, discharge inconsistent with standards of discipline
(A94.07/08) Discharge in lieu of Court-Martial: Although a punitive discharge was authorized, an other than honorable discharge was *too harsh* under the circumstances
(A94.09/10) Multiple minor offenses (Multiplicity)
(A94.11/12) *Arbitrary and capricious command actions* that constitute a clear abuse of authority, and which, although not amounting to prejudicial or legal error, may have contributed to the decision to discharge or the characterization of service
(A94.13/14) Vietnam war syndrome
(A94.15/16) Received clemency discharge
(A94.17/18) Completed alternate service or excused therefrom
(A94.19/20) Failed to complete alternate service but reasonable explanation
(A94.21/22) Homosexual interest self-admitted
(A94.23/24) Homosexual act(s) committed with express/implied consent of an adult(s)
(A94.25/26) Homosexual act(s) off military installation
(A94.27/28) Homosexual act(s) resulted from duress
(A94.29/30) Drugs: Simple possession (Small amount)
(A94.31/32) Drugs: Use off duty
(A94.33/34) Drugs: Use off military reservation
(A94.35/36) Drugs: No use after exemption granted
(A94.37/38) Drugs: No sale/trafficking
**(A94.39/40) Drugs: Use/possession
**(A94.41/42) Substantial enhancement of rights (current standards)
**(A94.43/44) Lack of alcohol/drug treatment
**(A94.45/46) *Not* within the purview of DRB
**(A94.47/48) *Not* an element of fact, law, or discretion
**(A94.49/50) Counseling pertaining to VA benefits *not* received
**(A94.51/52) Counseling regarding request for change in character/reason of discharge *not* received.
**(A94.53/54) Other [Submit category/issue to: Administrative Director Joint Service Review Activity OASD(MI&L) (MP&FM) Washington, D.C. 20301]
**(A95.00) Other [Submit category/issue to: Administrative Director Joint Service Review Activity OASD(MI&L) (MP&FM) Washington, D.C. 20301]
(A96.00)
(A97.00)
(A98.00)

Other Considerations

Part I (A99.00) Administrative Actions Indirectly Related to Discharge Process

(A99.01/02) Application for conscientious objector (CO)
(A99.03/04) Application for hardship discharge
(A99.05/06) Improper enlistment
(A99.07/08) Improper induction
(A99.09/10) Enlistment option *not* satisfied or waived
(A99.11/12) Application for compassionate reassignment
(A99.13/14) Evaluation/consideration for physical disability discharge
**(A99.15/16) Selected changes in service obligations
**(A99.17/18) Other [Submit category/issue to: Administrative Director Joint Service Review Activity OASD(MI&L) (MP&FM) Washington, D.C. 20301]

Part J—Special Programs

(A00.00) *Presidential Proclamation (PP43143), 16 SEP 74*
(A00.10) *Presidential Memoradum 9 JAN 77*
(A00.11/12) SM who applied for clemency UP, PP4313, and was wounded in combat (Vietnam)
(A00.13/14) SM who applied for clemency UP, PP4313, and was decorated for valor (Vietnam)
(A00.20) *Special Discharge Review Program (SDRP)*
(A00.21/22) Tour in Southeast Asia or Western Pacific
(A00.23/24) Wounded in Combat
(A00.25/26) Decorated for Valor/Merit
(A00.27/28) Previous Honorable Discharge
(A00.29/30) Satisfactorily served 24 Months prior to Discharge
(A00.31/32) Completed Alternate Service or was excused IAW Presidential Proclamation 4313
(A00.33/34) Age, Aptitude, Length of Service at time of Discharge
(A00.35/36) Education Level
(A00.37/38) Deprived Background
(A00.39/40) Personal Distress
(A00.41/42) Waiver to Enlist
(A00.43/44) Conscience
(A00.45/46) Drugs or Alcohol
(A00.47/48) Good Citizenship
(A00.49/50) Other factors

(A00.51/52) Discharge for Act(s) of Violence
(A00.53/54) Discharge for Act(s) of Dishonor
(A00.55/56) Discharge for Desertion in or from Combat Theater
(A00.57/58) Discharge for Offense(s) subject to Civilian Criminal Prosecution
(A00.59/60) Determination of Program Eligibility

Glossary

Purpose. To clarify the MEANING and TYPES of Issues indexed under each Index Category which are not self-evident in their concept. (Revised Subject/Category Listing, after mid-1978)

1. *Part A: Common Elements Throughout the Discharge Process*—A major category which relates to areas of potential impropriety which are *common* to all discharges regardless of the particular reason.

2. *A01.13/14: Evidence In Record Does Not Support Reason For Discharge*—For general application in cases such as UNFITNESS: frequent incidents, where the record does not reveal the "frequent incidents" and command action is not specific enough to support the action. This is NOT INTENDED FOR USE IN CASES where there is a more definitive, specified error or omission such as the absence of a valid Neuropsychiatric Evaluation (NPE) required for discharge as Unsuitable for C&B.

3. *Part B: Elements Common to Discharge (Where SM Has a Right To Board Action)*—This is for use as a general application in board-potential cases regardless of whether or not a board was actually convened to recommend retention/separation.

4. *A02.21/22: Command Intervention (Influence) Improper*—This applies to cases which relate to a Discharge Authority who exercised some influence over a board or a member of his command which influenced improperly, eliminated or reduced the board's or member's impartiality.

5. *A03.03/04: Personal Decoration, Or Awards And Decorations*—An award or a decoration given to an individual by name for a specific act (valorous or meritorious) or period of service (meritorious). This does NOT include consideration or service or campaign ribbons or medals given to all persons in a general category who served in an area or during a period.

6. *A32.00 and 33.00: Discharge (Characterization) As A Result Of DRB Or Other Official Board Action*—A category which allows indexing of changes made by official Boards (Review or Correction) which alter the original reason for discharge.

7. *A50.00 and 60.00: Unfitness or Midconduct*—Categories which are essentially the same in meaning and action but for which the title of the overall category of offenses has changed. UNFITNESS as a class of reasons for discharge was changed to MISCONDUCT in 1977.

8. *A78.00 and 79.00: Discharge For Inaptitude Or Unsuitability And Discharge For Undesirable Habits Or Traits (Discharges prior to APR 59)*—This is the term used as the "reason for discharge" for discharges prior to April 1959, for conduct which subsequently would have resulted in a discharge for UNSUITABILITY, UNFITNESS or MISCONDUCT.

9. *A92.17/18: Date And Period Of Service Which Is Subject Of DRB Review*—A category which relates to the period of service (dates inclusive) as compared to other periods when one could have served under less strenuous circumstances or in a less demanding environment. This also relates his length of service (period) to the term of his obligation (enlistment or induction); that is, how much of his obligations did he complete.

10. *A94.09/10: Multiple Minor Offenses*—This term describes the concept that while punishment may properly be imposed for each of two or more offenses arising out of the same act or transaction, what is substantially one act or transaction should not be made the basis for an unreasonable multiplication of charges against one person. This is *not* synonymous with "stacking of charges."

11. *A99.00: Administrative Actions Indirectly Related to Discharge Process*—Actions which require proper administrative disposition but which are *not* specifically regulatory or procedural steps in the discharge process or not directly related to one of those steps. Improper administrative disposition in these areas may reflect on the equity of the discharge while not rendering the discharge improper.

12. *A00.20: Special Discharge Review Program*—A special category of discharge reviews for SM who were separated from service on active duty (not including ACDUTRA between 4 August 1964 and 28 March 1973 [inclusive]); or who were discharged from the service under the *Deserter—Returnee Program* whose desertion began during the period of the SDRP (stated above) and who applied for review during the period 5 April 1977—4 October 1977, inclusive.

13. *Prejudicial Error:* An error of fact, law, or procedure associated with the discharge at the time of issuance which prejudiced the rights of the SM to the extent that there is substantial doubt that the characterization of service would have remained the same if the error had not been made.

Section II—Index Numbers to Index Non-Discharge Cases (Numerical Codes 100.00–199.99)

Correction Boards Index—Non-Discharge Cases

A

100.00 Administrative Matters
  100.01 Change of Name/Sex
  100.02 Change of Date/Place of Birth
  100.03 Change of Reenlistment
  100.04 Presumption of Death
  100.05 Change of MOS/Designation
  **100.06 Bar to Reenlistment
  **100.07 Training
101.00 Archives Cases
  101.01 Civil War
  101.02 Desertion
  101.03 Spanish-American War
  101.04 Establish Service
  101.05 Revolutionary War
102.00 Appointments
  102.01 Effective Date
  102.02 Grade
  102.03 Component
  102.04 Reason for Disqualification
  102.05 Inter-Service Transfer
  102.06 Termination
  102.07 Date of Rank
  102.08 Constructive Service for Officers

B

103.00

C

104.00 Cadets USMA/USNA/USAFA
  104.00 Restoration of Status
  104.02 Graduation/Appointments
105.00 Courts Martial
  105.01 Sentence (Including Dismissal/Discharge)
  105.02 Mental Incompetency/Capacity
  105.03 Lack of Opportunity for Restoration
  105.04 Conscientious Objection
  105.05 Impeachment of Testimony
  105.06 Use of Possession of Drugs
106.00 Clemency Discharge/Pardon
107.00 Decorations and Awards
108.00 Disability Separation/Retirement
  108.01 Diagnosis
  108.02 Percentage of Disability
  108.03 Line of Duty Determination
  108.04 Permanent
  108.05 Temporary
  108.06 Termination
  108.07 Combat Incurred
  108.08 Instrumentality of War

108.09 Grade
108.10 Effective Date
109.00 Discharge From Draft (WWI)
110.00 Discharge/Separation Documents
110.01 Change in Date
110.02 Reason and Authority
**110.03 Reinstatement

E

111.00 Efficiency/Effectiveness Reports
111.01 Officers and Warrant Officers
111.02 Enlisted Personnel
111.03 Bias/Prejudice—Rater/Indorser
111.04 Administrative/SRB Review
**111.05 Void
112.00 Enlistment/Reenlistment Contract
112.01 Home of Record
112.02 Grade/Date of Rank
112.03 Term of Enlistment
112.04 Broken Enlistment Commitment
112.05 Date of Enlistment
112.06 Void
112.07 Constructive Service
112.08 Continuous Service
112.09 Base Pay Entry Date
**112.10 Waiver to Reenlist
113.00 Establishment of Service
113.01 Reserve Components
113.02 SATC
113.03 Furlough
**113.04 Active Duty Service Commitment
113.04 WWI Railway Battalions
113.05 Civilian Conservation Corps

F

114.00 Fitness Reports (Navy/Marine Corps)
114.01 Removal of Officer Reports
114.02 Revised Reports
114.03 Enlisted Performance Evaluation—Removal/Modify
115.00 Flying Status
115.01 Effective Date
115.02 Removal From
115.03 Qualifying Service
115.04 Aeronautical Ratings

G

116.00

H

117.00

I

118.00

J

119.00 Jurisdiction of Board
119.01 Philippine Guerrilla Cases

K

120.00

L

121.00 Leave Adjustment
121.01 Type of Leave
121.02 Lump Sum Settlement
**121.03 Restored
122.00 Line of Duty Status
122.01 Injury
122.02 Disease/EPTS
122.03 Mental Responsibility
123.00 Lost Time
123.01 Absence Without Leave/Desertion
123.02 Mental Incompetency
123.03 Injury or Illness on Leave
123.04 Error or Technicality
123.05 Port Call
123.06 Confinement
123.07 Removal
**123.08 Restored

M

124.00 Medical Records
124.01 Change in Diagnosis
124.02 Dates of Treatment
124.03 Establishment of Record of Treatment
**124.04 Removal

N

125.00 National Guard
125.01 Status
125.02 Federal Recognition
126.00 Nonjudicial Punishment
126.01 Improperly Filed
126.02 Excessive Punishment
126.03 Removal of Reprimands
126.04 Expunge Record

O

127.00

P

128.00 Pay and Allowance
128.01 Family Separation Allowance
128.02 Travel Pay
128.03 Dislocation Allowance
128.04 Flying/Incentive Pay (including Submarine, Flight Deck, Experimental Stress duty, etc.)
128.05 Enlistment/Reenlistment Bonuses
128.06 Variable Incentive Pay/Continual/Medical/Dental, etc.
128.07 Proficiency Pay
128.08 Severance Pay
128.09 Readjustment Pay
128.10 Remission/Cancellation of Indebtedness
128.11 Mustering-Out Pay
128.12 BAQ/Subsistence Allowance
128.13 Uniform/Clothing Allowance
128.14 Other Types Pay
129.00 Pay Grade
129.01 Service Credit
129.02 Revocation of Orders
129.03 Authority
129.04 Highest Grade Satisfactory Held for Pay Purposes
145.00 Physical Disability
145.01 Incurred while on unauthorized absence
145.02 Existed prior to entry/aggravated
145.03 Existed prior to entry/not aggravated
145.04 Incurred while not in receipt of basic pay
145.05 Disciplinary action pending; handling of
145.06 Administrative discharge proceedings pending; handling of
130.00 Prisoner of War
131.00 Promotion
131.01 Selection Boards
131.02 Removal From Recommended List
131.03 Failure to be Considered
131.04 Effective Date
131.05 Date of Rank
131.06 Prisoner of War
131.07 Casualty Status
131.08 Terminal Leave Promotion
131.09 Advancement in Grade
131.10 Passover/Failure of selection—Removal

Q

132.00

R

133.00 Reduction in Grade/Rank
133.01 Misconduct
133.02 Inefficiency
133.03 Void/Removal Record
133.04 Technical Defect
134.00 Removal/Deletion of Records
134.01 Letters of Reprimand/Admonition
134.02 Derogatory Material
134.03 Remark of Desertion
135.00 Reserve Service Credit
135.01 Transfer Between Components
135.02 Retirement Point Credits
135.03 Change of Status
135.04 War/National Emergency Service
135.05 Date of Retirement
136.00 Retirement/Separation (Other Than Disability)
136.01 Effective Date

S

137.00 Survivors Benefit Plan and RSFPP
137.01 Eligibility
137.02 Effective Date of Participation
137.03 Termination of Participation
137.04 Change in Election

T

138.00

U

139.00

V

140.00

W

141.00

X

142.00 Statute of Limitations
142.01 As One Reason to Deny
142.02 Waived in the Interest of Justice
142.03 Waived for Justifiable/Valid Reason

Y

143.00

Z

144.00

[FR Doc. 84-11535 Filed 4-30-84; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; Deletions of and Amendments to Notices for Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 14 and amend 5 system notices for systems of records subject to the Privacy Act of 1974, as amended. Following identification of changes, amended notices are printed below in their entirety.

DATE: Actions shall be effective May 31, 1984.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG-AMR-S, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, at the above address; telephone: 703/325-6163.

SUPPLEMENTARY INFORMATION: The Army's system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

FR Doc 83-12048 (48 FR 25502), June 6, 1983
FR Doc 83-18883 (48 FR 32046), July 13, 1983
FR Doc 83-24181 (48 FR 40291), September 6, 1983
FR Doc 83-28792 (48 FR 49086), October 24, 1983
FR Doc 84-1118 (49 FR 2006), January 17, 1984
FR Doc 84-2331 (49 FR 3506), January 27, 1984
FR Doc 84-3683 (49 FR 5170), February 10, 1984
FR Doc 84-6438 (49 FR 8993), March 9, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

Dated: April 26, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

AO407.01aDAJA

System Name:

Patent, Copyright, and Trademark Soliciting Files (48 FR 25593), June 6, 1983.

Reason:

Records are covered by proposed amended notice AO406.01DAJA, reidentified and reprinted in this **Federal Register** as AO406.08DAJA.

AO508.17cUSARJ

System Name:

Transfer of POV Files (48 FR 25618), June 6, 1983.

Reason:

Records are covered by system notice AO509.09aDAPE, "Traffic Law Enforcement Files".

AO509.05aTRADOC

System Name:

Camper Trailer Registration Card Files (48 FR 25621), June 6, 1983.

Reason:

Records are covered by system notice AO509.09aDAPE, "Traffic Law Enforcement Files".

AO509.19bUSAREUR

System Name:

US Army Europe Motor Vehicle Registry Files (48 FR 25625), June 6, 1983.

Reason:

Records are covered by system notice AO509.09aDAPE, "Traffic Law Enforcement Files".

AO704.04DASG

System Name:

Medical and Dental Registrant Case File (48 FR 25647), June 6, 1983.

Reason:

These records are no longer accumulated by the Army.

AO708.21aTRADOC

System Name:

TCATA Personnel Information System (48 FR 25671), June 6, 1983.

Reason:

Records are covered in system notice AO715.06aDAPC, "Standard Installation/Division Personnel System".

AO716.04aDAAG

System name:

Military Personnel Register Files (48 FR 25664), June 6, 1983.

Reason:

Records are not subject to the Privacy Act "system of records" definition.

AO904.01aHSC

System name:

Medical Care Inquiry Files (48 FR 25709), June 6, 1983.

Reason:

Records are covered by DOD system of records DOCHA 07, "Medical Claim Historical Files".

A1101.07aDAMO

System name:

Telephone Directories (48 FR 25746), June 6, 1983.

Reason:

Information in this system is incorporated in proposed amended system of records AO102.03DAAG printed in this **Federal Register.**

A1201.07aUSAREUR

System name:

Passenger Reservation Ref Paper Files (48 FR 25750), June 6, 1983.

Reason:

Records are covered by system notice A1205.30aDAAG, Individual Travel Files.

A1205.17aDALO

System name:

Passenger Warrant Files (48 FR 25752), June 6, 1983.

Reason:

Records are covered by system notice A1205.30aDAAG, Individual Travel Files.

A1205.27aDALO

System name:

Bus Pass File (48 FR 25753), June 6, 1983.

Reason:

Records are covered by system notice A1205.26aDALO, "Local Transportation Authorization Files".

A1207.08bUSAREU

System name:

Government Equipment Operator Permit Files (48 FR 25755), June 6, 1983.

Reason:

Records are covered by system notice A1207.08aDAPE, "Operator's Examination and Qualification Record Files".

A1302.15aDAJA

System name:

Unsolicited Proposal Files (48 FR 25757), June 6, 1983.

Reason:

Records are covered by proposed amended system notice AO406.01, reidentified and reprinted in this Federal Register as AO406.08DAJA.

AMENDMENTS

AO102.03aDAAG

System name:

Office Personnel Locator/ Organizational Rosters.

Changes:

System ID and name:

Delete the suffix "a"; add to name: "Telephone Directory".

Categories of records in the system:

Change last sentence to read: "Military alert rosters, organizational telephone directories, and listings of office personnel are included in this system."

Following "Authority for maintenance of the system", add:

"Purpose:

To provide commanders and supervisors with emergency notification data, and operators and other users with locator data."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See blanket routine uses at 48 FR 25503, June 6, 1983."

Notification procedure:

Delete the last sentence.

Record access procedures:

Delete all information; substitute therefor: "Requests should be made as indicated under "Notification procedure'. Individual should provide full name, and some detail such as organization of assignment that can be verified, except that, in cases where individual has provided written consent to release of home address/telephone number to the general public, no identification is required."

Contesting record procedures:

Delete entry; substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Change "personnel" to "Army".

AO228.01DAMH

System name:

Army History Files.

Changes:

Categories of individuals covered by the system:

After "individuals who", delete remainder of phrase and insert: "offer historically significant items or gifts of money to the Army Museum System".

Categories of records in the system:

Delete period and add: "copy of donor's proffer of gift agreement and correspondence with donor regarding status and/or location of donation(s)."

Following the caption "Authority for maintenance of the system", insert the following:

"Purpose:

To provide a record of donations and contributions of historical property to US Army museums and historical holdings; to enable Army museums and historical holdings to provide, upon request by the donor or donor's heirs, information concerning the status/ location of his/her donation; to enable the US Army to establish title to the property."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "Information from this system may be disclosed to a municipal corporation, a soldier's monument association, a State museum, an incorporated museum or exhibition operated and maintained for educational purposes only, a post of the Veterans of Foreign Wars or the American Legion, or other Federal museums upon donation or transfer of the historical property to one of those organizations."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and Disposal:

Add the following: "Inquiries about historical events or persons, and responses thereto, are destroyed when no longer needed."

AO406.01aDAJA

System name:

Patent, Copyright, Trademark, and Proprietary Data Files.

Changes:

System ID:

Change ID to read: "AO406.08DAJA".

System Location:

Delete second paragraph entitled "Decentralized System:"; substitute therefor: "Secondary: Office of the Staff Judge Advocate at major Army commands, field operating agencies, and installations; addresses are listed in the Appendix to the Army inventory of system notices. (See 48 FR 25773, June 6, 1983.)

Categories of individuals covered by the system:

Add the following phrase: "and Government employees to whom copyright assistance has been rendered."

Categories of records in the system:

Delete entry; substitute therefor: "Documents relating to: Disposition of rights in Government employees' inventions; foreign patent filings; licensing of Government-owned patents, copyrights, and service marks; Government interest in or under patents, applications for patent, and copyrights procured on behalf of the Department of the Army; and invention disclosures including drawings, patentability search reports, evaluation reports, applications, amendments, petitions, appeals, interferences, licenses, assignments, other instruments, and relevant correspondence."

Following "Authority for maintenance of the system", insert:

"Purpose:

To determine the rights in Government employee inventions, and to maintain evidence and record of: Documents used in filing for foreign patents; invention disclosures submitted to the Department of the Army; patents and applications for patent procured on behalf of the Army or in which the Army has an interest; patent and copyright

licensing and assignments; and copyright assistance rendered."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor:

"Information from the system may be disclosed to the US Patent and Trademark Office, Department of Commerce, and/or to the Copyright Office, Library of Congress.

"In the event of legal proceedings and litigation, information may be disclosed to the Civil Division, Department of Justice.

"For foreign patent filings records are presented to the Director of Patent Administration, Department of National Defense in Ottawa, Ontario, Canada.

"Parties to a licensing arrangement have access to the specific files involved.

"Concerned contractors and/or Government agencies have access in order to conduct patent investigations and evaluations."

Notification procedure:

Delete entries; substitute therefor: "Individuals desiring to know whether or not information on them exists in the system of records may write to the System Manager, furnishing full name, current address and telephone number, the case number or other identifying information on correspondence emanating from the Army."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to their records in this system should write to the System Manager, furnishing information required under "Notification procedure".

Contesting record procedures:

After "determination", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute therefor: "From the individual, Army records, the Government agency interested in the invention or copyright, research material in libraries, the Patent and Trademark Office, and/or the Copyright Office."

AO508.17bDAPE

System name:

Blackmarket Monitoring Files.

Changes:

System ID:

Change "USARJ" to "DAPE".

System name:

Add "Ration Control/" before present title.

System location:

Add: "U.S. Army Europe and Seventh Army; U.S. Army Southern Command: U.S. Forces Korea/Eighth Army."

Categories of individuals covered by the system:

Delete entry; substitute therefor: "All members of the U.S. Army at oversea locations, their dependents, civilian employees, U.S. Embassy personnel, contract personnel, technical representatives, and individuals who are assigned to or under the judicial or administrative control of the U.S. Army who make purchases of controlled items from authorized resale activities at oversea locations, those authorized duty-free privileges at Class VI stores, commissaries, and retail outlets located on U.S. facilities and installations overseas."

Categories of records in the system:

Before current wording, insert: "Individual's name, SSN, citizenship, passport number, service component, dependency status, local address;".

Authority for maintenance of the system:

So much as reads "Status of Forces Agreement between the United States of America and Japan" is changed to read: "Status of Forces * * * America and the host country in which U.S. Forces are located."

Add the following paragraph:

"Purpose:

To assist commanders and U.S. Armed Forces investigative agents in monitoring purchases of controlled items; to produce ration control plates for authorized users; to maintain record of selected controlled item purchases at retail facilities and suspected violators of the system; and to comply with Joint Service blackmarket monitoring control policy."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore:"To provide information to the host country, required by the Status of Forces Agreement between the United States of America and the host country."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

After "paper records", delete remainder, and add: "magnetic tapes, microfiche."

Retrievability:

Delete "unit or station".

Safeguards:

Add: "During off duty hours, the facility housing the records is secured by sound activated alarm."

Retention and disposal:

Delete entry; substitute therefor: "Records are retained for 1 year; violations data are retained until the end of the individual's tour of duty or employment, then destroyed."

System manager(s) and address:

Delete entry: substitute therefor: "Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington, DC 20310."

Notification procedure:

Delete entry; substitute therefor: "Information may be obtained from the Provost Marshal at the oversea Army installation which issued the ration control authorization."

Record access procedures:

Delete all information; substitute therefor: "Individuals desiring to access records pertaining to them should inquire as stated under 'Notification procedure', furnishing full name, SSN, and signature."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute therefor: "From individual's application for ration control privileges; recorded sales at retail outlets and orders made through exchange catalog sales at U.S. military facilities in oversea location."

AO715.07cUSFK

System name:

Command Unique Personnel Information Data System (CUPIDS)

Changes:

System location:

Delete all information; substitute therefor: "Headquarters, U.S. Forces,

Korea/Eighth U.S. Army, APO San Francisco 96301."

Categories of records in the system:

Delete entries; substitute the following: "Individual's name, SSN, date and place of birth, sex, citizenship, passport number, date arrived in and previous tours in the Republic of Korea, rotation date, service component, pay grade/position, marital status, dependency status, local address, religious preference, and selected skill specialties."

Following "Authority for maintenance of the system", add:

"Purpose:

Information is used for personnel management, strength accounting, manpower management, and contingency planning and operations."

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

Delete all information; substitute therefor: "Information required by the Status of Forces Agreement between the United States of America and the Republic of Korea, including number and location of contractor, technical representatives, and potential noncombatant evacuees may be disclosed to the Republic of Korea."

Policies and practices for storing retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Delete "listed by area and geographical sub-areas;".

Retention and disposal:

Delete all entries; substitute therefor: "Information is destroyed 90 days after individual's tour or employment ends."

System manager(s) and address:

Delete entry; substitute therefor: "Commander, U.S. Forces, Korea/Eighth U.S. Army, APO San Francisco 96301".

Record access procedures:

After "addressed", delete remainder and add: "as indicated under 'Notification procedure', and contain full name of the individual, current address, telephone number, and SSN."

Record source categories:

Delete entry; substitute therefor: "From the individual."

As amended, Systems AO102.03aDAAG, AO228.01DAMH, AO406.08DAJA, AO508.17bDAPE, and AO715.07cUSFK read as follows:

AO102.03DAAG

SYSTEM NAME:

Personnel Locator/Organizational Roster/Telephone Directory.

SYSTEM LOCATION:

Segments are maintained by offices and/or Army telephone switchboards at Headquarters, Department of the Army, Staff and field operating agencies, commands, installations and activities. Official mailing addresses are the organizational directory in the appendix to Army system notices (48 FR 25773, June 6, 1983).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, civilian employees, and in some instances their dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include cards or listings/compilations of individual's name, Social Security Number, unit of assignment and/or home address, unit and/or home telephone number, and related information. Military alert rosters, organizational telephone directories, and listings of office personnel are included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012.

PURPOSE:

To provide commanders and supervisors with emergency notification data, and operators and other users with locator data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, card files, loose-leaf and bound notebooks; magnetic tape/disc.

RETRIEVABILITY:

By individual's surname. Rosters may be retrieved by unit or organization.

SAFEGUARDS:

Records are maintained in file cabinets, locked desks, or rooms accessible only to authorized personnel having official need therefor.

RETENTION AND DISPOSAL:

Individual records are destroyed upon transfer or separation of individual; rosters are destroyed upon update.

SYSTEM MANAGER(S) AND ADDRESS:

Commander or supervisor of organization maintaining locator or directory.

NOTIFICATION PROCEDURE:

Information may be obtained from commander or supervisor of organization to which individual is/was assigned or employed.

RECORD ACCESS PROCEDURES:

Requests should be made as indicated under "Notification procedure". Individual should provide full name, and some detail such as organization of assignment, that can be verified, except that, in cases where individual has provided written consent to release of home address/telephone number to the general public, no identification is required.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contrasting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; official Army records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO228.01DAMH

SYSTEM NAME:

Army History Files.

SYSTEM LOCATION:

U.S. Army Center of Military History, Headquarters, Department of the Army, Washington, D.C. 20314.

Decentralized segments exist at historical offices at Headquarters, Department of the Army and field operating agencies, major commands, and the U.S. Army Military Historical Research Collection, Carlisle Barracks, PA 17013.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel associated with the Army; individuals who offer historically significant items or gifts of money to the Army Museum System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical résumés and personal working files of U.S. Army personnel; personal papers donated by individuals for historical research; photographs of Army personages; requests for historical documents regarding U.S. Army activities and responses thereto; copy of donor's proffer of gift agreement and correspondence with donor regarding status and/or location of donation(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012; 5 U.S.C., section 301.

PURPOSE:

To provide a record of donations and contributions of historical property to U.S. Army Museums and historical holdings; to enable Army museums and historical holdings to provide upon request by the donor or donor's heirs, information concerning the status/location of his/her donation; to enable the Army to establish title to the property.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to a municipal corporation, a soldier's monument association, a State museum, an incorporated museum or exhibition operated and maintained for educational purposes only, a post of the Veterans of Foreign Wars or the American Legion, or other Federal museums upon donation or transfer of the historical property to one of those organizations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic tapes/discs, and photographs.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Records are maintained in secured areas accessible only to persons having need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Permanent. Some historical material and photographs are retired to the Washington National Records Center when no longer needed; other such material is transferred to the Military History Research Collection at Carlisle Barracks, PA for preservation. Inquiries about historical events or persons, and responses thereto, are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Military History, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the System Manager.

RECORD ACCESS PROCEDURES:

Individuals may request access to their records by writing to the System Manager, furnishing their full name, address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, his/her Army record, official Army documents, public records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO406.08DAJA

SYSTEM NAME:

Patent, Copyright, Trademark, and Proprietary Data Files.

SYSTEM LOCATION:

Primary: Headquarters, Department of the Army, Office of The Judge Advocate General, The Pentagon, Washington, DC 20310.

SECONDARY:

Office of the Staff Judge Advocate at major Army commands, field operating agencies, and installations; addresses are listed in the Appendix to the Army inventory of system notices. (See 48 FR 25773, June 6, 1983.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted inventions to the Government; inventors with patents, or applications for patent procured on behalf of the Department of the Army or in which the Government has an interest; authors of copyrightable or copyrighted material in which the Government has an interest; and Government employees to whom copyright assistance has been rendered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to: disposition of rights in Government employees' inventions; foreign patent filings; licensing of Government-owned patents, copyrights, and service marks; Government interest in or under patents, applications for patent, and copyrights procured on behalf of the Department of the Army; and invention disclosures including drawings, patentability search reports, evaluation reports, applications, amendments, petitions, appeals, interferences, licenses, assignments, other instruments, and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE:

To determine the rights in Government employee inventions, and to maintain evidence and record of: Documents used in filing for foreign patents; invention disclosures submitted to the Department of the Army; patents and applications for patent procured on behalf of the Army or in which the Army has an interest; patent and copyright licensing and assignments; and copyright assistance rendered.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the system may be disclosed to the U.S. Patent and Trademark Office, Department of Commerce, and/or to the Copyright Office, Library of Congress.

In the event of legal proceedings and litigation, information may be disclosed to the Civil Division, Department of Justice.

For foreign patent filings records are presented to the Director of Patent Administration, Department of National Defense in Ottawa, Ontario, Canada.

Parties to a licensing arrangement have access to the specific files involved.

Concerned contractors and/or Government agencies have access in order to conduct patent investigations and evaluations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in buildings protected by security guards, and are accessible only to authorized persons

having need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

At the primary location: records pertaining to patent matters are retained for 20 to 25 years depending on the specific case; those concerning copyright matters are retained either for 56 years or on expiration of copyright not renewed, after which they are destroyed by shredding. Records at the secondary location are destroyed after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

The Judge Advocate General, Headquarters, Department of the Army, Washington, D.C. 20310; senior patent attorney at each secondary location.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not information on them exists in the system of records may write to the System Manager, ATTN: DAJA–IP, furnishing full name, current address and telephone number, the case number or other identifying information on correspondence emanating from the Army.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their records in this system should write to the System Manager, furnishing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Army records, the Government agency interested in the invention or copyright, research material in libraries, the Patent and Trademark Office, and/or the Copyright Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO508.17bDAPE

SYSTEM NAME:

Ration Control/Blackmarket Monitoring Files.

SYSTEM LOCATION:

Office of the Provost Marshall, U.S. Army, Japan: U.S. Army Europe and Seventh Army; U.S. Army, Southern Command; U.S. Forces Korea/Eighth Army.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members of the U.S. Army at oversea locations, their dependents, civilian employees, U.S. Embassy personnel, contract personnel, technical representatives, and individuals who are assigned to or under the judicial or administrative control of the U.S. Army who make purchases of controlled items from authorized resale activities at oversea locations, those authorized duty-free privileges at Class VI stores, commissaries, and retail outlets located on U.S. facilities and installations overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, SSN, passport number, citizenship, service component, dependency status, local address: sales slips and control sheets used in sale of controlled items by U.S. Forces; overspending/overpurchase printouts produced by central computer facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012; 5 U.S.C., section 301; Status of Forces Agreement between the United States of America and the host country in which U.S. Forces are located.

PURPOSE:

To assist commanders and U.S. Armed Forces investigative agents in monitoring purchases of controlled items; to produce ration control plates for authorized users; to maintain record of selected controlled item purchases at retail facilities and suspected violators of the system; and to comply with Joint Service blackmarket monitoring control policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide information to the host country, required by the Status of Forces Agreement between the United States of America and the host country.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic tapes, microfiche.

RETRIEVABILITY:

By name and/or SSN.

SAFEGUARDS:

Records are accessed only by authorized personnel having official need therefor. During off duty hours, the facility housing the records is secured by sound activated alarm.

RETENTION AND DISPOSAL:

Records are retained for 1 year; violations data are retained until the end of the individual's tour of duty or employment; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the Provost Marshal at the oversea Army installation which issued the ration control authorization.

RECORD ACCESS PROCEDURES:

Individuals desiring to access records pertaining to them should inquire as stated under "Notification procedure", furnishing full name, SSN, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From individual's application for ration control privileges; recorded sales at retail outlets and orders made through exchange catalog sales at U.S. military facilities in oversea locations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO715.07cUSFK

SYSTEM NAME:

Command Unique Personnel Information Data System (CUPIDS).

SYSTEM LOCATION:

Headquarters, U.S. Forces, Korea/ Eighth U.S. Army, APO San Francisco 96301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of U.S. Forces, Korea and Eighth U.S. Army, their dependents, U.S. Embassy employees, contract personnel, technical representatives, and potential noncombatant evacuees living in the Republic of Korea.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, SSN, date and place of birth, sex, citizenship, passport number, date arrived in and previous tours in the Republic of Korea, rotation date, service component, pay grade/ position, martial status, dependency status, local address, religious

preference, and selected skill specialties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301; Status of Forces Agreement: United States of America and the Republic of Korea.

PURPOSE:

Information is used for personnel management, strength accounting, manpower management, and contingency planning and operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information required by the Status of Forces Agreement between the United States of America and the Republic of Korea, including number and location of contractor, technical representatives, and potential noncombatant evacuees may be disclosed to the Republic of Korea.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, microfiche, and paper printouts.

RETRIEVABILITY:

By surname of noncombatants; by SSN of all others.

SAFEGUARDS:

Records are accessible only to authorized personnel; during non-duty hours, the facility is locked and secured by sound activated alarm.

RETENTION AND DISPOSAL:

Information is detroyed 90 days after individual's tour or employment ends.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Forces, Korea/ Eighth U.S. Army, APO San Francisco 96301.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manger, ATTN: AJ-PER-DM, Yongsan/Seoul, Korea.

RECORD ACCESS PROCEDURES:

Individuals should address requests as indicated under "Notification procedure", and contain full name, current address, telephone number, SSN, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–11652 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting Change

The following changes have occurred for the meeting of the Army Science Board Functional Subgroup on Research and New Initiatives, which was originally announced in the **Federal Register** issue of Thursday, 19 April 1984 (49 FR 15600), FR Doc. #84–10567:

Meeting dates: Wednesday & Thursday, 23 & 24 May 1984 (instead of only on Thursday, 24 May 1984).

Place: The Pentagon, Washington, D.C. (both days).

Times: 1300–1730 hours on 23 May; 0830–1700 hours on 24 May.

Maria P. Winters,

Administrative Officer.

[FR Doc. 84–11351 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday thru Friday, 30 & 31 May and 1 June 1984.

Times of Meeting: 0830–1700 hours, all three days (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on the Army's LHX Aircraft Program will meet for classified briefings and discussions and report writing session. The Subgroup is tasked with a comprehensive review of LHX requirements, technology, and specific critical issues impacting on program development. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–11649 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates and Times of Meeting: Wednesday 30 May 1984, 1200–1700 hours; Thursday, 31 May 1984, 0830–1700 hours; and Friday, 1 June 1984, 0830–1200 hours.

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Functional Subgroup on Planning, Concepts, and Management Support will meet for for classified briefings and discussions on planning and program items. The meeting will also be a tutorial for new members of the Subgroup. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–11650 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday, 22 May 1984.

Times: 0830–1600 hours (Open).

Place: The Pentagon, Washington, D.C.

Agenda: The Chaimen of both the Army Science Board's Ad Hoc Subgroup on AVRADA (Avionics Research and Development Activity, located at Fort Monmouth, New Jersey) Effectiveness Review and the Ad Hoc Subgroup on TACOM (Tank-Automotive Command R&D Center, located in Warren, Michigan) Effectiveness Review will meet for orientation briefings and discussions with the ASB Vice-Chair and Army officials to chart the courses of the two study efforts. The purpose of the external effectiveness reviews is to ensure the continuing excellence of both Army laboratories. The Subgroups are tasked with providing independent observations on potential and actual performance of the labs, including professional judgment on the cause of deficiencies, if any. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The Army Science Board Administrative Officer, Sally

Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–11645 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday, Thursday, & Friday, 23–25 May 1984.

Times of Meeting: 0830–1700 hours, all three days (Closed).

Place: U.S. Army Missile Command, Huntsville, Alabama.

Agenda: The entire Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense (BMD) will meet for classified briefings and discussions on 23 & 24 May. The Discrimination Subpanel of this Ad Hoc Subgroup will additionally meet on the 25th of May. The Subgroup is tasked with a comprehensive review of BMD requirements, technology, and specific critical issues impacting on program development. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–11646 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates, Times, & Places of Meeting:

(1) *Wednesday, 23 May 1984* (Closed)

- 0830–1700 hours; at HQS U.S. Army Training and Doctrine Command (TRADOC), Fort Monroe, Virginia;

(2) Thursday, 24 May 1984 (Closed)

- 0900–1200 hours; at Human Engineering Laboratory (HEL), Aberdeen Proving Ground, Maryland;
- 1300–1600 hours; at Walter Reed Army Institute of Research (WRAIR), Washington, D.C.

(3) *Friday, 25 May 1984* (Closed)

- 0800–1100 hours; at U.S. Army Research Institute for the Behavioral and Social Sciences (ARI), Alexandria, Virginia
- 1100–1400 hours; at U.S. Army Materiel Development and Readiness Command (DARCOM), Alexandria, Virginia

Agenda: The Personnel Factors in Weapon System Performance Subpanel of the 1984 Army Science Board Summer Study on Leading and Manning Army 21 will meet for classified briefings and discussions addressing the following: (1) What means does the Army have to better integrate human capabilities considerations into new systems design P^{3}I efforts, and what needs to be done to make human considerations a key factor in concept development and system design? (2) What is the effectiveness of methods the Army uses to assess mental and physical processes/capacities which leverage weapon systems and unit performance? Are specific human capabilities required to obtained planned hardware performance? Which methodologies result in high individual and high group performance? Specific weapon systems will be addressed on all three days. An Executive Session will wind-up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–11647 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, 25 May 1984.

Times of Meeting: 0830–1500 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Steering Committee will meet for classified briefings and discussions of ongoing ASB study efforts. The Steering Committee is made up of the Functional Subgroup Chairs (Planning, Concepts and Management Support; Weapons Systems; C^{3}I; Human Capabilities/Resources; Logistics & Support Systems; and, Research and New Initiatives), along with the Assistant Secretary of the Army (Research, Development and Acquisition) (ASA(RDA)), the Principal Deputy ASA(RDA), and the ASB Executive Director. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–11648 Filed 4–30–84; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Correctional Education Policy Statement

AGENCY: Department of Education.

ACTION: Notice—United States Department of Education Correctional Education Policy Statement.

SUMMARY: The Secretary Announces the Correctional Education Policy for the Department of Education.

FOR FURTHER INFORMATION CONTACT: Bernard O'Hayre, Program Specialist, Special Programs Branch, Office of Vocational and Adult Education, U.S. Department of Education, Regional Office Building-3, Room 5052, 7th and D Streets, SW., Washington, D.C. 20202, Telephone: (202) 245–2774.

United States Department of Education Correctional Education Policy Statement

The Department of Education, under the direction of the Secretary of Education, is legislatively designated as the primary agency responsible for the administration of Federal programs of financial assistance to education. The Secretary is authorized, upon request, to provide technical assistance to State educational agencies, institutions of higher education, and local school systems. Legislation now pending in Congress will, if enacted, provide the Secretary with additional authority for carrying out grant programs.

The Department's programs and budget are focused on two essential goals—

(a) To guarantee that students of all ages enrolled in our schools, colleges, and vocational centers have equal access to the best possible education; and

(b) To improve the quality of education for every student by supporting research, development, and dissemination of new teaching methods and materials.

Education is a necessity for every American, including the more than 2.2 million adults and juveniles who are under the jurisdiction of the criminal justice system. However, few of the Nation's jails provide educational services. Most of the Nation's prisons provide basic academic and vocational programs, but fewer than 12 percent of

the total prison population have acc to such programs.

The men and women who serve time in the criminal justice system are among those the Department of Education has a responsibility to serve. It is, therefore, the commitment of the Department to lend its efforts in upgrading and making more effective the educational programs in correctional institutions of the States.

The Department's involvement in correctional education is further justified by the extremely low level of educational development found in the corrections population. By advocating improvement in the quality and quantity of education and training opportunities for adult and juvenile offenders, the Department of Education will redress this educational disability in the corrections population.

Compared to other educationally disadvantaged groups, the social and economic cost of the corrections population is extremely high. The criminal justice system places a heavy burden on the American taxpayer. Custody costs range from $13,000 to $40,000 per inmate each year. Added to that are court costs, welfare payments, construction costs, and other costs commonly associated with arrest, conviction, incarceration, release, rearrest, and reincarceration.

At the current rate of recidivism, it is estimated that of the 150,000 inmates who will be released this year, between 30 to 70 percent will be recommitted to a correctional facility within one year. Lack of basic education and marketable job skills aggravate a released offenders's difficulties in securing employment, thus, influencing the return to crime. However, with the tools for survival—basic education and a marketable job skill, coupled with the rise in self-esteem which is the inevitable result of achievement—a released inmate's chances for rehabilitation are considerably increased.

It is, therefore, the policy of the Department of Education that through its leadership and resources—

The Department will, subject to availability of funds and appropriate statutory authority, assist State and local jurisdictions to develop, expand, and improve their delivery systems for academic, vocational, technical, social and other educational programs for juvenile and adult offenders in order to enhance their opportunities to become law-abiding, economically self-sufficient, and productive members of society.

To carry out this policy—

(a) The Office of Vocational and Adult Education will assume leadership for the Department's correctional education effort.

(b) The Department will establish an intra-departmental coordinating committee on Correctional Education to assist in bringing about greater cooperation and coordination in the Department's corrections-related programs in the areas of policy, use of existing resources, avoiding duplication of efforts and costs, and effecting a better delivery system for needed services at the State and local levels.

(c) The Department will play an active role in interagency corrections coordination activities.

(d) The Department expects to support research, development, and dissemination efforts to develop knowledge of special curricula, organization, personnel, and support services needed in correctional education.

All officers in the Department of Education and all State and local educational agencies receiving the Department's assistance are encouraged to act in accordance with this policy.

Dated: April 25, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-11572 Filed 4-30-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Petroleum Carrier Co., Inc., Max B. Penn and Rodney Siegfried; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Petroleum Carrier Co. Inc., Max B. Penn and Rodney Seigfried. This Proposed Remedial Order alleges pricing violations in the amount of $1,163,865.17 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212 during the time period June 1974 through December 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room 6E-055, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 6th day of April, 1984.

Ben L. Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 84-11658 Filed 4-30-84; 8:45 am]

BILLING CODE 6450-01-M

Robinson Energy, Inc., et al.; Proposed Remedial Order

AGENCY: U.S. Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Proposed Remedial Order to Robinson Energy, Incorporated and Jerry D. Robison.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Robison Energy, Incorporated and Jerry D. Robison, 450 North East, Suite 181, Houston, Texas 77060. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62(c) and 205.202 in the principal amount of $5,135,551.19 and 10 CFR 212.183 in the principal amount of $889,220.07 for the period April 1980 through January 1981.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6G-030, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 12th day of April, 1984.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 84-11657 Filed 4-30-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-289-000]

Colorado Interstate Gas Co.; Request Under Blanket Authorization

April 25, 1984.

Take notice that on March 8, 1984, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-289-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that CIG proposes to construct and operate a sales tap in Douglas County, Colorado, in order to permit the delivery of natural gas to Public Service Company of Colorado (PSCo), an existing customer of CIG, under the authorization issued in Docket No. CP83-21-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to add a new delivery point for an existing customer, PSCo. In order to effect the delivery of gas to PSCo, CIG also proposes to construct and operate a sales tap, referred to as the South Quebec sales meter station (South Quebec), in Douglas County, Colorado. It is explained that, initially, CIG would deliver to PSCo a maximum of 600 Mcf of natural gas per day at the new delivery point, then increasing to a maximum delivery obligation of 45,000 Mcf per day in 1985. CIG states that PSCo's general daily entitlement and total annual entitlement from CIG, however, would remain unchanged from the current volumes of 602,173 Mcf and 125,986,000 Mcf, respectively.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11751 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-344-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

April 25, 1984.

Take notice that on April 10, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-344-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of General Battery Corporation (General Battery) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 900 million Btu of natural gas per day for General Battery for a term of one year. Columbia states that the gas to be transported would be purchased from Leader Equities, Inc. (Leader), and would be used for process gas in General Battery's plant in Reading, Pennsylvania.

Columbia states that it has released certain gas supplies which General Battery has purchased from Leader and that these supplies are subject to the ceiling price provisions of section 103, 107 and 108 of the Natural Gas Policy Act of 1978. It is indicated that Columbia would receive up to 900 million Btu of natural gas per day delivered into its pipeline systems at existing interconnections in Miskingum, Noble, Guernsey and Morgan Counties, Ohio, and would redeliver such gas to UGI Corporation, the distribution company serving General Battery.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either: (1) Its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent of gas, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. Columbia also states that it is charging the Gas Research Institute Funding Unit.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11752 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-23-001]

Eastern Shore Natural Gas Co.; Tariff Filing

April 24, 1984.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on April 18, 1984, tendered for filing the following revised substitute tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

Substitute Alternate To Be Effective May 1, 1984

Substitute Alternate Twenty-Fifth Revised Sheet No. 5
Substitute Alternate Twenty-Fifth Revised Sheet No. 6
Substitute Alternate Tenth Revised Sheet No. 7
Substitute Alternate Twenty-Fifth Revised Sheet No. 10
Substitute Alternate Twenty-Fifth Revised Sheet No. 11
Substitute Alternate Twenty-Fifth Revised Sheet No. 12
Substitute Alternate Second Revised Sheet No. 13

Eastern Shore states that the purpose of the filing is to reflect: (1) A Purchased Gas Cost Current Adjustment, (2) a Demand Charge Adjustment, (3) a Deferred Gas Cost Adjustment, and (4) to report the Projected Incremental Pricing Surcharges. This filing is being made in accordance with sections 20, 21, and 23 of Eastern Shore's FERC Gas

Tariff and provisions of the Stipulation and Agreement approved by letter order issued February 13, 1984 in Eastern Shore's Docket No. RP83–32.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before April 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–11753 Filed 4–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–389–000]

Gulf States Utility Co.; Filing

April 25, 1984.

The filing Company submits the following:

Take notice that on April 13, 1984, Gulf States Utilities Company (Gulf States) tendered for filing letters dated November 3, 1983 from Middle South Services, Inc., as agent for the Louisiana Power and Light Company, to GSU and to the Central Louisiana Electric Company (CLECO), given notice of a reduction in the Diversity Base Amount in Service Schedule E of the Interconnection Agreement between CLECO, GSU and the Louisiana Power and Light Company (LPL) dated September 1, 1951, pursuant to the terms of the Interconnection Agreement, as amended.

Gulf States requests an effective date of November 15, 1983, and therefore requests waiver of the Commission's notice's requirements.

Copies of this filing were served upon the Public Utility Commission of Texas, the Louisiana Public Service Commission, Central Louisiana Electric Company, Middle South Service, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–11754 Filed 4–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–395–000]

Illinois Power Co.; Filing

April 25, 1984.

The filing Company submits the following:

Take notice that on April 18, 1984, Illinois Power Company (Illinois) tendered for filing proposed changes in the following rate schedules:

Service Agreement under FERC Electric Tariff, Original Volume No. 1, appliable to the Village of Ladd, the City of Oglesby, to Cedar Point Light and Water Company and Mt. Carmel Public Utility Co.

Illinois states that the proposed changes would increase revenues from jurisdictional sales and service by approximately $850,000 based on the twelve month period ending December 31, 1984.

Illinois further states that with the present rates it would earn an inadequate rate of return on electric sales to these customers during the twelve months ending December 31, 1984. Continuing increases in cost of capital, labor, materials and supplies are expected to further reduce the Company's earnings. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for these increasing costs.

Illinois proposes an effective date of March 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Company's electric Full Requirements Wholesale customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–11755 Filed 4–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–394–000]

Kansas City Power & Light Co.; Filing

April 25, 1984.

The filing Company submits the following:

Take notice on April 6, 1984, Kansas City Power & Light Company (KCPL) tendered for filing a notice of cancellation of Rate Schedule FPC No. 73 (effective March 15, 1975), pursuant to which wholesale service has been provided to Missouri Power & Light Company (MPL).

MPL requests an effective date of May 31, 1984.

Copies of this filing has been served upon MPL and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–11756 Filed 4–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP84-31-000]

Natural Gas Pipeline Company of America; Late Petition and Complaint Under § 275.203 of the Commission's Regulations and Title I of the Natural Gas Policy Act

April 25, 1984.

On April 10, 1984, the Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed a complaint with the Federal Energy Regulatory Commission (Commission) protesting the application of Amoco Production Company (Amoco) for NGPA section 107 determination for Kewanee Federal No. 1 well. The subject well is located in Uinta County, Wyoming. Natural filed its protest under § 275.203 [1] of the Commission's regulations alleging that the NGPA section 107 well determination for the subject well made by the United States Department of Interior, Bureau of Land Management (BLM), is in violation of the Natrual Gas Policy Act of 1978 (NGPA).[2]

Amoco filed with BLM an application for a section 107 well determination for the subject well. Natural alleges that despite three requests for copies of BLM's preliminary determination and assurances by BLM that Natural would be given timely notice of its preliminary determination, BLM did not supply Natural with a copy of the preliminary determination. Natural alleges that it was effectively denied the opportunity to participate in the proceedings before the jurisdictional agency. Natural seeks a waiver of the twenty day requirement of § 275.203 [3] of the Commission's regulations to permit the filing of this protest.

In order for gas production from a well to qualify under section 107(c)(1) of the NGPA and § 272.103(b)[4] as "high cost natural gas," the NGPA requires that such gas be produced from a well the surface drilling of which began on or after February 19, 1977.

According to Natural, the subject well was spudded on September 22, 1976, and drilled to a depth of 8,550 feet where it was then plugged and abandoned as a dry hole on December 19, 1976. On May 20, 1979, Amoco Production Company (Amoco) re-entered the well and drilled to a depth of 15,825 feet where it then completed the Kewanee Federal No. 1 well.

Natural alleges that there is not substantial evidence to support BLM's determination that the Kewanee Federal No. 1 well qualifies under section 107(c)(1) of the NGPA as the reentry in 1979 does not constitute the commencement of "surface drilling" as required by that section. Relying on the order issued in *Sun Exploration and Production* Docket No. GP83-10-000, 23 FERC ¶ 61,300 (1983), Natural challenges the BLM determination on the grounds that Amoco made more than minimal use of the existing wellbore and did not incur almost the entirety of normal production costs.

Any person desiring to be heard or to protest this complaint should file within 30 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceedings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11757 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 275.203.

[2] 15 U.S.C. 3301-3432 (1982).

[3] 15 U.S.C. 275.203

[4] 18 CFR 272.103(b).

[Docket No. ER84-391-000]

Niagara Mohawk Power Corp.; Filing

April 25, 1984.

The filing Company submits the following:

Take notice that on April 16, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing proposed rate schedules between Niagara and the Connecticut Light and Power Company and Western Massachusetts Electric Company, collectively called the Northeast Utilities Companies, dated March 15, 1984.

Niagara presently has on file an agreement with the Northeast Utilities Companies dated September 29, 1981. The agreement with the Northeast Utilities Companies provides for the sale of surplus energy as scheduled by the Northeast Utilities Companies.

Niagara states that the March 15, 1984 agreement incorporates an upper limit or "cap" to the energy reservation charge.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11758 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-392-000]

Niagara Mohawk Power Corp.; Filing

April 25, 1984.

The filing Company submits the following:

Take notice that on April 16, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule an agreement between Niagara and the Pennsylvania Power and Light Company, dated December 6, 1983, and an amendment dated March 15, 1984.

Niagara states that the agreement provides for the sale of surplus energy as scheduled by Pennsylvania Power and Light Company.

Niagara requests waiver of the Commission's notice requirements to allow effective dates of December 6, 1983 for the agreement and March 1, 1984 for the amendment.

Copies of this filing were served upon the Pennsylvania Power and Light Company and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11759 Filed 4 30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-393-000]

Public Service Company of Indiana, Inc.; Filing

April 25, 1984.

The filing Company submits the following:

Take notice that on April 17, 1984, Public Service Company of Indiana, Inc. (PSI) tendered for filing a Short-Term Power Agreement, dated April 1, 1984, between PSI and American Municipal Power—Ohio, Inc. (AMPO).

PSI states that the Agreement provides for Short-Term Power by PSI to AMPO for periods of not less than one week. AMPO is to arrange with other utilities interconnected with PSI for receipt of such power for its transmission and distribution to only the delivery points located in the State of Ohio serving the patrons of AMPCO.

PSI requests an effective date of April 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon AMPCO, the Public Utility Commission of Ohio and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11760 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-369-000]

Public Service Company of New Mexico; Cancellation

April 25, 1984.

The filing Company submits the following:

Take notice that on April 2, 1984, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Cancellation of Service Schedule F dated as of January 28, 1983, to the Interconnection Agreement between PNM and El Paso Electric Company (EPE) dated July 19, 1966, as amended.

PNM requests an effective date of January 31, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon EPE and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11761 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-324-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

April 25, 1984.

Take notice that on March 29, 1984, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP84-324-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Southern proposes to abandon certain facilities and to construct, install, and operate certain other facilities in Talledega County, Alabama, in connection with a change in delivery point to the Alabama Gas Corporation (Alagasco) for delivery to the City of Talladega, Alabama, and surrounding areas under the authorization issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it proposes to replace the metering facilities at Station No. 2 because its contract with Alagasco provides for a delivery pressure of 200 psia whereas the existing metering facilities have a maximum allowable working pressure of 150 psia. Southern further states that the existing facilities are obsolete and that it would become increasingly difficult to maintain the facilities in compliance with applicable pipeline codes. Southern alleges that the proposed facilities would enable it to deliver gas to Alagasco at the contract pressure and would eliminate the obsolescence and operational problems.

Southern states that the total estimated cost of the abandonment and subsequent construction and installation is approximately $47,163. Southern further states that there would be no increase in the Talladega Area contract demand associated with the proposed replacement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11762 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 84-361-000]

Valero Transmission Co.; Application

April 25, 1984.

Take notice that on April 23, 1984, Valero Transmission Company (Valero), P.O. Box 500, San Antonio, Texas 78292, filed in Docket No. CP84-361-000 an application pursuant to Executive Order Nos. 10485 and 12038, and Secretary of Energy Delegation Order No. 0204-112 for a permit authorizing the construction and operation of facilities on the international boundary between the United States and Mexico, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Valero proposes to construct or repair and operate on the international boundary near Eagle Pass, Texas, and Piedras Negras, Coahuila, Mexico, two parallel eight-inch pipelines to connect with the facilities of Petroleos

Mexicanos (Pemex) in order to deliver natural gas to Pemex for resale to residential and industrial users in Piedras Negras. The facilities would cross the Rio Grande and Valero proposes to construct or repair and operate the facilities on the United States side at the international boundary.

Valero states that natural gas had been authorized to be exported to Mexico at the Eagle Pass location since 1940. Several preceding companies related to Valero held permits for the border facilities but these permits were deemed to be relinquished by the Commission as a consequence of the fact that the border facilities were washed away by floods on the Rio Grande during 1980, it is explained. (See Commission's order on June 9, 1981, in *Valero Transmission Company et al.*, Docket No. CP62-288, *et al.* (15 FERC ¶ 61,244)).

Valero states that most if not all of its pipeline facilities remained in place after the 1980 flood and may simply require testing and repair, but Pemex's line was toally destroyed. Valero states that Pemex is prepared to reconstruct its facilities in the Rio Grande as soon as a permit is issued to Valero.

Applicant further states that it is not owned wholly or in part by any foreign government or directly or indirectly subventioned by any foreign government and that it has no contracts with anyone which in any way relate to the control or fixing of rates for the purchase, sale or transportation of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 14, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11786 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-279-000]

Amoco Production Co., Beaver Creek; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 25, 1984.

On April 12, 1984, Amoco Production Company, (Applicant) of 1670 Broadway, Denver, Colorado 80202, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Beaver Creek Oil and Gas Field, Fremont County, Wyoming. The facility will consist of a combustion turbine generator and a waste heat recovery boiler. The useful thermal energy output, which will be in the form of process steam, will be utilized in the Beaver Creek gas processing plant. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 2,300 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11749 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-252-000]

GoGen Lynchburg, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 25, 1984.

On April 5, 1984, GoGen Lynchburg, Inc., (Applicant) of Post Office Box 19398, Texas 77224, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located adjacent to the Upjohn La Porte Chemical Plan in La Porte, Harris County, Texas. The facility will consist of four 75,000 kilowatt combustion turbine generators, four waste heat recovery boilers, and a steam turbine generator. The useful thermal energy output, which will be in the form of process steam, will be sold to Upjohn for use in its chemical production processes. The primary energy source for the facility will be natural gas, with No. 2 fuel oil as a standby energy source. The electric power production capacity of the facility will be 425,000 kilowatts at 74° F ambient (nominal rating) and approximately 475,000 kilowatts at 30° F ambient.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11750 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-262-000]

Solar Energy Building, Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

April 26, 1984.

On April 9, 1984, Solar Energy Building, Ltd., (Applicant) of 2145 Webster Avenue, Palo Alto, California 94301, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No

determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the Strassberger Industrial Park, Fairfield, Solano County, California. The primary energy source for the facility will be solar energy. The facility will consist of two arrays, with each array containing 100 solar energy modules. Each solar energy module can produce 2.5 kilowatts of electric power and 40,000 Btu's of hot water per hour. The electric power production capacity of the facility will be 500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11763 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-253-000]

Sunlaw Energy Corp., U.S. Growers Cold Storage; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 26, 1984.

On April 6, 1984, Sunlaw Energy Corporation (Applicant), of 8350 Wilshire Boulevard, Beverly Hills, California 90211, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located at 2045 East Vernon Avenue, Vernon, California. The facility will consist of two combustion turbine generators, two waste heat recovery boilers, a steam turbine generator, and an ammonia-absorption refrigeration machine. The useful thermal energy output, which will be in the form of steam, will be used to produce −35 °F ammonia through a refrigeration process to meet the cold storage refrigeration requirements of the U.S. Growers Cold Storage Warehouse No. 5. The primary energy source for the facility will be natural gas with fuel oil as a backup energy source. The electric power production capacity of the facility will be 58.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11764 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-254-000]

Sunlaw Energy Corp., Santa Fe Springs; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 26, 1984.

On April 6, 1984, Sunlaw Energy Corporation, (Applicant) of 8530 Wilshire Boulevard, Beverly Hills, California 90211, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located at Los Nietos Road and Decosta Avenue in Santa Fe Springs, California. The facility will consist of two combustion turbine generators, two waste heat recovery boilers, and a steam turbine-generator. The useful thermal energy output, which will be in the form of steam, will be used for industrial process heating and drying. The primary energy source for the facility will be natural gas with fuel oil as a back up energy source. The electric power production capacity of the facility will be 58.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing area on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-11765 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

April 27, 1984.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1981 Annual Reports

Valuation Docket No. PV—1463-000; Western Oil Transportation Company, Inc., P.O. Box 1183, Houston, Texas 77001.

No. PV—1465-000; C & T Pipeline, Inc., P.O. Box 6317, Columbia, South Carolina 29260.

On or before June 5, 1984, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to

file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 84-11627 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of March 16 through March 23, 1984

During the Week of March 16 through March 23, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regualtions. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: April 25, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of March 16 through March 23, 1984]

Date	Name and location of applicant	Case No.	Type of submission
March 19, 1984	Indianapolis Power & Light Co., Indianapolis, Indiana	HEG-0033	Petition for Special Redress If granted: The Office of Hearings and Appeals would direct that the Department of Energy compensate Indianapolis Power & Light Company for expenses incurred in complying with the nonresidential Buildings Energy Consumption Survey.
March 20, 1984	Andrus Interest, Inc., Washington, D.C.	HEF-0488	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the September 23, 1983 Consent Order with Andrus Interest, Inc.
March 20, 1984	Flying Diamond Oil Corporation, Washington, D.C	HEF-0490	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the August 3, 1977 Consent Order with Flying Diamond Oil Corporation.
March 20, 1984	Ernest E. Allerkamp, Washington, D.C	HEF-0489	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the November 3, 1983 Consent Order with Ernest E. Allerkamp.
March 20, 1984	Gray Trucking Company, Washington, D.C.	HEF-0491	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the March 23, 1983 Consent Order with Gray Trucking Company.
March 20, 1984	John H. Hnatio, Mt. Airy, Maryland	HFA-0214	Appeal of an Information Request Denial If granted: The February 22, 1984 Freedom of Information Request Denial issued by the Office of Freedom of Information and Privacy Acts Activities Branch would be rescinded, and John H. Hnatio would receive access to certain DOE information.
March 20, 1984	Kastman Oil Company, Washington, D.C.	HEF-0492	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the December 15, 1983 Consent Order with Kastman Oil Company.
March 20, 1984	The Parade Company, Washington, D.C.	HEF-0493	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the August 18, 1983 Consent Order with The Parade Company.
March 20, 1984	Riverside Oil, Inc., Washington, D.C.	HEF-0494	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the August 20, 1983 Consent Order with Riverside Oil, Inc.
March 20, 1984	Southern Crude Oil Resources, Inc., Washington, D.C.	HEF-0495	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the December 5, 1983 Consent Order with Southern Crude Oil Resources, Inc.
March 20, 1984	Texas Pacific Oil Company, Inc., Washington, D.C	HEF-0496	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the February 15, 1983 Consent Order with Texas Pacific Oil Company, Inc.
March 20, 1984	Thornton Oil Company, Washington, D.C	HEF-0497	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the April 6, 1983 Consent Order with Thornton Oil Corporation.
March 23, 1984	Bassman & Mitchell, Washington, D.C.	HFA-0215	Appeal of an Information Request Denial If granted: The October 27, 1983 Freedom of Information Request Denial issued by the EIA's Office of Oil and Gas would be rescinded and Bassman & Mitchell would receive access to DOE forms EIA-460 and FEA-302 which reflect the weighted average prices and volumes of petroleum businesses.
March 23, 1984	Crysen Corporation, Washington, D.C	HEF-0498	Implementation of Special Refund Procedures If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the June 23, 1983 Consent Order with Crysen Corporation.

REFUND APPLICATIONS RECEIVED

[Week of March 16, 1984 to March 23, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Mar. 19, 1984	Belridge/Arkansas	RQ8-73
Mar. 20, 1984	Amoco/New Jersey	RQ21-74

[FR Doc. 84-11656 Filed 4-30-84; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2578-3]

Water Quality Criteria; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: In the Federal Register of February 7, 1984 (49 FR 4551), EPA announced the availability for public comment of 10 water quality criteria documents. EPA asked that written public comments be submitted by May 7, 1984. EPA has determined that additional time should be allowed.

DATE: The deadline for submitting written public comments is hereby extended to June 6, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 245-3030.

Dated: April 23, 1984.

Henry Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 84-11673 Filed 4-30-84; 8:45 am]
BILLING CODE 6560-50-M

[AH-FRL 2578-6]

Health Assessment Document for Chlorinated Benzenes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Availability of External Review Draft.

SUMMARY: This notice announces the availability of an external review draft of the Health Assessment Document for Chlorinated Benzenes. Those persons interested in commenting on the scientific merit of this document will be able to obtain a copy as follows:

(1) The document will be available in single copy quantity from EPA at the following address: ORD Publications—CERI–FRN, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268 (513) 684–7562.

(2) Requesters should be sure to cite the EPA number assigned to this document, EPA 600/8–84–015A. To receive the document, requesters should send their names and addresses to CERI at this time.

(3) This document will also be available for public inspection and copying at the EPA Library at Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Commenters must submit comments in writing, addressed to: W. Bruce Peirano, Project Officer for Chlorinated Benzenes, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268.

DATES: The Agency will make this document available for public comment on or about May 21, 1984. Comments must be received by close of business on July 20, 1984, or be postmarked by that date.

SUPPLEMENTARY INFORMATION: The objective of the Health Assessment Document for Chlorinated Benzenes is to provide EPA with a sound scientific basis for the purpose of determining whether this compound should be regulated under the Clean Air Act.

FOR FURTHER INFORMATION CONTACT: W. Bruce Peirano, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268 (513) 684–7531.

Dated: April 23, 1984.

Donald J. Ehreth,

Acting Assistant Administrator for Research and Development.

[FR Doc. 84-11672 Filed 4-30-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Part-Time Career Employment Program

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed procedure for comment.

SUMMARY: The FCC proposes to issue internal personnel procedures to implement a formal part-time career employment program in conformance with the Federal Employee Part-Time Career Employment Act of 1978. The proposed program will consolidate and document procedures and guidelines for establishing and filling part-time positions, establish a process for considering requests from FCC employees for conversion to part-time employment, summarize the effect of part-time employment on Federal employment benefits programs, and outline reporting requirements. After consideration of comments received, final procedures will be issued as part of the FCC Personnel Manual, Chapter 340.

DATES: Written comment period expires June 28, 1984.

ADDRESS: Interested parties are invited to submit written comments to the Associate Managing Director-Personnel Management, Federal Communications Commission, Room 212, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Curths, Office of the Associate Managing Director-Personnel Management, Federal Communications Commission (703–632–720).

Part-Time Employment Program

Subchapter 1: General Provisions

1–1. *Introduction and Legal Basis.* This subchapter contains regulations to implement Pub. L. 95–437, the Federal Employees Part-Time Career Employment Act of 1978 (5 U.S.C. 3401 et seq.), and establishes a continuing program to provide part-time permanent employment opportunities in the Federal Communications Commission (FCC). In passing the Federal Employees Part-Time Career Employment Act of 1978, the Congress held that part-time career (permanent) employment benefits the Government as an employer by providing management with the flexibility to meet work requirements and benefits society by providing an alternative for those who require or

prefer shorter hours; for example, handicapped individuals, students, and parents with family responsibilities. The Act directs Federal agencies to provide increased part-time opportunities at grade levels up to GS–15.

1–2. *Policy.* The policy of the Commission is to provide part-time employment opportunities, consistent with available resources and mission requirements. Part-time opportunities may be provided by establishment of new part-time positions and/or conversion of current full-time employees to part-time tours of duty at their request.

1–3. *Definition.* The term "Part-Time Employment" is defined as employment of an individual under permanent appointment in the competitive or excepted service with a regularly scheduled tour of duty of at least 16 hours per week and up to a maximum of 32 hours per week. This means that an employee who is appointed or converted to a part-time permanent position after April 7, 1979, is covered by the Act and must have a regularly scheduled tour of duty of no less than 16 hours a week and no more than 32 hours a week, except as noted in section 1–5.

1–4. *Positions Covered.* This program applies to all FCC positions other than those excluded in section 1–5.

1–5. *Positions Excluded From Coverage.* The following employees are excluded from the 16 to 32 hours per week tour of duty and health insurance cost prorating provisions of the Act:

a. Positions in the Senior Executive Service or at GS–16 and above.

b. Positions for which a regular work schedule of 1 to 15 hours per week is necessary for mission accomplishment.

c. Positions filled by employees with temporary, term, or indefinite, appointments, or by employees with intermittent tours of duty.

d. Positions filled by employees who have continuously worked on part-time work schedules since or before April 8, 1979, provided they continue to work on a part-time work schedule without a break in service of three calendar days or more.

1–6. *Ceiling for Part-Time Positions.* For employment ceiling purposes, part-time employees are counted as occupying a fraction of a full-time work year, according to the number of hours in their part-time work schedules; e.g., two employees working 20 hours per week would occupy the same employment ceiling allocation as one full-time employee. Ceiling allocations for part-time employees are controlled under the full-time equivalent (FTE) monitoring system.

1–7. *Responsibilities*—a. *Managing Director.* The Managing Director is responsible for:

(1) Overall direction of the Part-Time Employment Program;

(2) Establishment of part-time employment goals and timetables;

(3) Review and approval/disapproval of any Bureau/Office requests for additional resources required by proposed part-time actions;

(4) Control/allocation of employment ceilings; and

(5) Assessment of Bureau/Office Part-Time Employment Program activities to determine progress towards program goals and to ensure fair and equitable implementation of the program.

b. *Bureau/Office Chiefs.* Chiefs of Bureaus and Offices are responsible for:

(1) Implementation of the Part-Time Employment Program within their organizations;

(2) Accomplishment of part-time employment goals determined in cooperation with the Managing Director;

(3) Review of vacancies to determine opportunities for establishing new part-time positions; and

(4) Careful consideration of employee requests for conversion to part-time tours to address employees' part-time employment needs to the maximum extent consistent with Bureau/Office work requirements.

c. *Associate Managing Director-Personnel Management.* The Associate Managing Director-Personnel Management is responsible for:

(1) Providing personnel support services to the Managing Director and Bureau/Office Chiefs regarding implementation of the Part-Time Employment Program;

(2) Assisting the Managing Director in establishment of part-time employment goals and timetables;

(3) Evaluating progress towards those goals; and

(4) Designating a Part-Time Employment Program Coordinator to assist in the accomplishment of these responsibilities.

d. *Part-Time Employment Program Coordinator.* The coordinator is responsible for:

(1) Assisting in development and implementation of part-time employment goals and timetables;

(2) Consulting on the part-time employment program with interested parties, e.g. EEO and Federal Women's Program officials, Handicapped Program coordinators and representatives of the union, etc.;

(3) Responding to requests for advice and assistance on part-time employment within the Commission;

(4) Maintaining liaison with groups interested in promoting part-time employment opportunities; and

(5) Preparing reports on part-time employment for the Office of Personnel Management and other appropriate organizations.

Subchapter 2: Program Implementation

2–1. *Goals and Timetables.* Each fiscal year, the Managing Director will establish annual goals and timetables for establishing part-time positions and converting full-time vacancies to part-time. Goals and timetables will be coordinated with Bureau/Office Chiefs and the Associate Managing Director-Personnel Management, and will include consideration of such factors as:

a. Organization mission and nature of work;

b. Workload fluctuations;

c. Turnover rate;

d. Affirmative Action Plan objectives;

e. Availability of any current FCC employees with full-time work schedules who have expressed interest in part-time employment; and

f. Costs of establishing part-time positions and converting full-time vacancies, such as increased furniture, space, and equipment needs.

2–2. *Creation of Part-Time Positions.* a. Positions occupied by full-time employees may not be abolished in order a create part-time positions. Full-time positions may, however, be converted to part-time when requested by the incumbent and approved by management or when positions are vacated. If such actions may have significant impact on other employees, the supervisor should first consult with the Labor Management and Employee Relations Staff in AMD–PM.

b. Any person who is employed on a full-time basis shall not be required to accept part-time employment as a condition of continued employment. This limitation does not preclude offering a part-time vacancy to a full-time employee in lieu of RIF separation.

2–3. *Review of Vacancies.* a. The administrative staffs of the Bureaus/Offices are responsible for reviewing vacancies prior to initiating recruitment requests in order to determine the feasibility of filling the vacancy on a part-time basis, considering the factors listed in section 2–1, along with other appropriate considerations.

b. The Position Management and Evaluation Branch in the Office of the Associate Managing Director-Personnel Management will include consideration of the feasibility of filling a vacancy on a part-time basis in their position review and classification process.

Establishment of *new* positions with part-time tours of duty, as opposed to conversion of existing full-time positions to part-time, require documentation and approval under the ceiling control system administered by the Position Management and Evaluation Branch.

2–4. *Notifying Employees and the Public of Part-Time Vacancies.* Part-time vacancies will be announced under the same conditions and through the same FCC Merit Promotion Plan procedures as full-time positions and announcements posted-distributed for employee and public information, as provided in those procedures.

2–5. *Approval of Additional Office Space and Equipment Requests.* A request for any additional office space or equipment needs that are anticipated due to the establishment or conversion of part-time positions must be submitted in advance to the Operations Support Division and approved by the Managing Director prior to taking action to fill part-time positions.

2–6. *Establishment of Part-Time Work Schedules*—a. *Tour of Duty.* (1) A tour of duty consists of the hours of a day and the days of an administrative workweek that constitute an employee's regularly scheduled workweek.

(2) The tour of duty for a part-time employee must be no less than 16 and no more than 32 hours per week, except as provided in section 2–8.

(3) When a part-time tour of duty involves five hours or more of schedule work on a day, the tour of duty for that day must include a one-half hour non-pay period for a lunch break (i.e., a four hour tour from 8:00 a.m. to 12:00 noon, but a five hour tour from 8:00 a.m. to 1:30 p.m.).

b. *Changing a Part-Time Tour of Duty.* (1) The Commission may officially change a part-time employee's tour of duty due to work requirements or at the employee's request. A change should be made in advance of the administrative workweek in which the change is to occur. Such requests are to be submitted on Standard Form 52, Request for Personnel Action, following the same administrative procedures and channels as used for other personnel actions, for the approval of the Associate Managing Director-Personnel Management. It may also be possible to meet an employee's short term need for revised work hours through the Commission's flexitime program.

(2) When necessary due to urgent work needs, staff shortages, short deadlines in a case handled by a part-time employee that arise on a non-work day, etc., part-time employees may be required to work *additional* hours beyond their regular part-time tour of duty (e.g., eight hours on a day when six hours would be the regular tour or on a Thursday in addition to regularly scheduled work days of Monday, Wednesday, and Friday). Such additional work requirements do not constitute a "change" in the employee's regular part-time tour of duty and do not require the documentation discussed in section 2–6.c. (1), as long as the additional work is a temporary requirement and the limitations in section 2–6.b. (4) are observed. Although documentation of a change in tour of duty may not be required, all hours worked are to be shown on the Time and Attendance Card. See section 4–7 regarding compensation for additional work hours.

(3) When additional work hours are needed or a schedule is changed, other than at the employees request, advance notice should be given whenever feasible. At least two weeks advance notice of a long term or permanent change should be given whenever practical.

(4) Part-time employees may not work more than 32 hours per week for more than two consecutive pay periods, although they may be changed to a full-time tour of duty on either a temporary or permanent basis if the additional work requirement is expected to last longer (see section 2–9).

(5) An involuntary reduction in the number of hours of a permanent part-time employee's scheduled tour of duty must be handled in accordance with procedures for adverse actions. See section 2–9.d. (2) for single exception.

2–7. *Job Sharing*—a. *Definition.* Job sharing is a form of part-time employment in which the tours of duty of two (or more) employees are arranged in such a way as to cover a single full-time position.

b. *Status.* Although they share the duties of a full-time position, job sharers are considered to be individual part-time employees for purposes of appointment, tour of duty, pay, classifcation, leave, holidays, benefits, position change and merit promotion actions, service credit, recordkeeping, reduction in force, adverse actions, grievances, and personnel ceilings.

c. *Tour of Duty.* A variety of different work scheduling arrangements can be used, for example:

(1) Split days (one job sharer works mornings and the other afternoons);

(2) Alternate days (one job sharer works Monday, the other Tuesday, etc.); or

(3) Split weeks (one job sharer works from Monday morning through noon Wednesday and the other works from noon Wednesday through Friday).

d. *Coordination of Work Schedules.* The work schedules of job shares may overlap (one job sharer may work from 10 a.m. to 2 p.m. every day and the other from noon to 4 p.m.). This arrangement can provide the Commission with extra coverage during heavy workload periods without using overtime. A certain amount of overlap may also be desirable to enable job sharers to attend staff meetings or familiarize each other with work developments. Although most job sharers split the hours of a full-time position in half, this is not an absolute requirement. For example, one job sharer could work 24 hours each week and the other 16.

e. *Job Classification and Position Descriptions.* Job sharers each have a separate position description which may or may not be identical. Duties of job sharers may be the same or different. It is also possible to have "split-level" job sharing in which one job sharer performs duties classified at a higher grade level than the duties performed by the other employee sharing the position.

f. *Merit Promotion Eligibility.* A job sharing team may jointly or individual apply for a full-time position announced under merit promotion procedures, but the qualifications of each job sharer will be evaluated individually. If both job sharers are among the best qualified for a full-time position, they should be referred as a team to the selecting official. A job sharer may also apply individually for promotion to part-time or full-time position. In the latter case, the job sharer would have to agree to convert to a full-time work schedule if selected for the position.

2–8. *Employees Whose Part-Time Employment Began Before April 8, 1979*—a. *Basic Exemption.* An individual who has been employed on a part-time permanent basis *without a break in part-time service* since before April 8, 1979, is exempt from provisions of the Federal Employees Part-Time Career Employment Act of 1978 regarding the requirement for a tour of duty of between 16 and 32 hours per week, and the requirement for a prorating of contributions to health benefits program costs (see section 4–8. regarding health benefits). Promotion, reassignment or transfer to another part-time position has no effect on the exemption.

b. *Effect of a Break in Part-Time Service.* A break in Federal service of more then 3 calendar days or movement to a full-time position for more than 2120 days would mean that if the employee later returned to a part-time work schedule, he or she would be covered by all provisions of the Act. For this purpose a temporary promotion or detail

of 120 days or less to a full-time position does not count as a break in part-time service.

2–9. *Change to a Full-Time Work Schedule*—a. *Authority.* It is contrary to merit principles to appoint an individual to work part-time with the intent to convert the employee to full-time after a brief interval. Unexpected increases in workload may, however, require a Bureau/Office to change the work schedule of a part-time employee to full-time on either a short term (i.e., not to exceed a certain date in excess of two consecutive pay periods) or a permanent basis.

b. *Documentation.* A request for change to a full-time work schedule is initiated by the Bureau/Office administrative staff on Standard Form 52, Request for Personnel Action, in accordance with the procedures for other personnel actions.

c. *Notice.* If an involuntary change to a full-time work schedule creates a hardship to the employee, for example, by disrupting school or child care arrangements, the Bureau/Office should first determine if there are other ways to accomplish the added work within available resources. If not, the maximum feasible notice of the change should be given to the employee.

d. *Temporary Changes to a Full-Time Work Schedule.* (1) If the change is temporary, the not-to-exceed date should be specified in the remarks section of the SF–52, Request for Personnel Action, and the SF–50, Notification of Personnel Action.

(2) Termination of a temporary change to a full-time work schedule and return to a part-time work schedule consisting of the same or greater number of scheduled work hours than existed prior to the temporary change to full-time does not constitute an involuntary reduction in work hours, as discussed in section 2–6.b.(5). A request to terminate a temporary change to full-time work schedule should be initiated by the Bureau/Office on SF–52, Request for Personnel Action.

(3) A temporary change to a full-time work schedule of less than two consecutive pay periods does not need to be documented by SF–52. All hours worked, however, are to be recorded on the Time and Attendance Card.

e. *Eligibility for a Full-Time Work Schedule.* Any permanent part-time employee is eligible to request conversion to a full-time work schedule, subject to Commission resource needs and availability of full-time positions, and subject to the merit considerations outlined in section 2–9.a. Part-time employees do not, however, have an entitlement to conversion to a full-time tour of duty.

Subchapter 3: Changing from Full-Time to Part-Time Employment

3–1. *Purpose.* This subchapter establishes Commission policy and procedures for handling requests from FCC employees to change from full-time to part-time employment. Requests for conversion to part-time employment are most likely to arise from employees whose family obligations have changed or who have decided to pursue academic studies. Approval of such requests provide opportunities to contribute to the Commission's goal of expanding part-time employment and may also provide a number of advantages to management, including:

a. Filling a part-time position with an individual already trained and familiar with the specific responsibilities of the job results in the maximum utilization of the part-time hours available.

b. Experience has shown that part-time employees often have high levels of motivation and can be very productive relative to the number of hours worked.

c. Approval of such a request will often result in the retention of an experienced employee who may otherwise have no alternative but to leave the Commission.

d. The retention rate part-time employees is higher than for full-time employees due to the more limited opportunities to move elsewhere. This can be a significant advantage in the case of an employee with critical or difficult-to-develop skills.

While there are often advantages to the approval of requests for conversion to part-time employment, it must be recognized that management has the right to determine how positions are allocated and how work is to be carried out. There may be situations where the requirements of a position cannot be effectively carried out with the interruptions or lapses in coordination/follow up that may result from part-time employment, where it is not possible or feasible to locate other part-time personnel with necessary skills to carry out remaining requirements of a highly specialized full-time position, or where the remaining requirements cannot be accommodated by alternative methods.

3–2. *Coverage.* Any employee, other than those occupying a position listed in section 1–5, may request a change to part-time employment under the provisions of this program.

3–3. *Criteria.* An employee's request for conversion to part-time employment should be considered against the following criteria:

a. *Specific Requirements of the Employee's Position.* Consideration should include how the duties of the position could be carried out on a part-time basis, such as a division of workload by cases, assigned areas, or discrete stages of action; whether major problems in coordination, responsiveness, effectiveness of follow up activities, additional costs, etc. can realistically be expected and would be of significant impact; and whether the duties can be restructured, with some responsibilities redistributed to other full-time or part-time staff.

b. *Alternatives Available for Work Accomplishment.* Consideration should include the feasibility of creating an additional part-time position(s) within the immediate office or elsewhere in the Bureau/Office to handle any critical work of the employee's full-time position that could not be accommodated within the requested part-time work schedule and possible alternatives in scheduling or assigning work to accommodate a part-time employee. Supervisors should discuss any proposed changes that might significantly affect other employees with the Labor Management and Employee Relations Branch in AMD–PM.

c. *Benefit to Employee.* Consideration should be given to the possible benefits to the employee resulting from part-time employment in comparison to any problems that are realistically expected to result from approving the request.

3–4. *Procedures.* Employee requests for a change from full-time to part-time employment should be handled in accordance with the procedures outlined below:

a. Employees who wish to consider changing from full-time to part-time employment should informally discuss part-time employment with their supervisors, and should consider the effects such a change will have on employment rights and benefits (discussed in subchapter 4).

b. If employees wish to request conversion to part-time employment, the request form shown in Appendix A should be completed and given to their immediate supervisors. Employees should also send an information copy of the request to the Part-Time Employment Coordinator in the Office of the Associate Managing Director-Personnel Management. Specific reasons for the request, along with the benefits the employees hope to gain, should be described in an attachment to the request form. Any suggestions or recommendations that employees may have about how their duties could be

carried out on a part-time basis may also be included on the attachment.

c. Upon receipt of a formal request, supervisors should evaluate the request in terms of the criteria outlined in section 3–3. Supervisors should then indicate his/her recommendation in the space provided on the form, attach a brief analysis of the circumstances that support the recommendation, and forwards the request through the Bureau/Office administrative staff to the Bureau/Office Chief for review and decision.

d. Bureau/Office Chiefs should review and evaluate submissions in terms of the criteria stated in section 3–3. Consideration should also be given to any resources outside employees' immediate offices that might be available to accommodate requests, and to encourage a consistent approach to part-time employment requests within the Bureau/Office *when work requirements are similar.* If any significant resource impact is involved, coordination with OMD should be completed at this point (see section 2–5). Bureau/Office Chiefs then record their approval or disapproval on the request forms. If a request must be disapproved, a determination should also be made as to whether there are any other appropriate part-time employment opportunities within the Bureau/Office that may address an employee's need.

3–5. *Documentation*—a. *Approved Requests.* Upon approval of an employee's request for change to part-time employment, a copy is sent to the employee and the administrative staff of the Bureau/Office prepares an SF–52, Request for Personnel Action, attaches the original copy of the approved request for change to part-time employment, and forwards the documents to the Office of the Associate Managing Director-Personnel Management.

b. *Denied Requests.* A copy of the employee's request for change to part-time employment, with attachments, indicating the Bureau/Office Chief's disapproval should be sent to the employee and another copy should be forwarded to the Part-Time Employment Program Coordinator in the Office of the Associate Managing Director-Personnel Management.

3–6. *Part-Time Placement Assistance*—a. *Applicant File.* The Office of the Associate Managing Director-Personnel Management (AMD–PM) will carry out a "clearing house" function by establishing file of applications of employees who are interested in part-time basis. This information may also assist supervisors who need to fill new part-time positions quickly by lateral assignment, and assist supervisors who may need to know if part-time candidates are available to compliment the part-time tours of other employees on their staff. It is important to note that such applications would be maintained only for consideration for lateral assignment or voluntary change to lower grade, actions that would not ordinarily be announced under merit promotion procedures. Part-time positions involving promotional opportunities would have to be filled in accordance with FCC merit promotion procedures, and employees interested in a particular posted vacancy must apply specifically for that vacancy by following the procedures listed on the announcement.

b. *Application Procedures.* Employees may apply for consideration for other part-time opportunities, as described in section 3–6.a. by furnishing the Part-Time Qualifications Statement, along with a covering note that indicates the types of positions, grade levels, occupational/organizational areas and minimum/maximum work schedules that the employee would consider. Employees will be responsible for periodically updating their application forms. Other FCC employees who are interested in part-time employment may also apply.

Subchapter 4: Personnel Policies and Benefits

This subchapter will summarize information previously published by the Office of Personnel Management regarding the impact of part-time employment on employment procedures and benefit programs. (Not reproduced herein.)

Subchapter 5: Reports and Program Evaluation

5–1. *Reporting.* The Associate Managing Director-Personnel Management will survey the Bureau/Office twice a year regarding their activities under the Part-Time Employment Program and their progress toward meeting program goals. The results of these surveys, along with other available data, will be used to complete biannual reports to the Office of Personnel Management on part-time employment. Information to be requested includes:

a. Specific information on the organization's progress in meeting FCC part-time career employment goals;

b. An explanation of any impediments encountered in meeting such goals or in carrying out the provisions of the Part-Time Employment Program and a description of any actions taken to overcome those impediments;

c. Information on opportunities for part-time employment which have been extended to older individuals, the handicapped, students, and parents with family responsibilities;

d. A copy of any internal Bureau/Office issuances on part-time permanent employment; and

e. The number of new part-time permanent positions established and/or full-time vacancies converted to part-time during the reporting period.

5–2. *Evaluation.* The Part-Time Employment Program will be reviewed and evaluated by the Associate Managing Director-Personnel Management in conjunction with other personnel management reviews.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–11638 Filed 4–30–84; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1457]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

April 24, 1983.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration and clarification 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: Policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska. (CC Docket No. 80–584, RM–3304)

Filed by: Alan Y. Naftalin, George Y. Wheeler, Margot S. Humphrey & Gregory C. Staple, Attorneys for Alascom, Inc., on 4–16–84.

Subject: Investigation of Access and Divestiture Related Tariffs. (CC Docket No. 83–1145, Phase I)

Filed by: Richard C. Schramm & Thomas L. Welch, Attorneys for The Bell Atlantic Telephone Companies on 4–9–84. Wilson B. Garnett, President & Stephen A. Wuttke, Attorney for Central Telephone Company on 4–11–84. Kevin H. Cassidy & J. Manning Lee, Attorneys for Satellite Business Systems on 4–11–84. Raymond F. Scully, Louise L.M. Tucker, Robert L. Barada, Diane L. Barada, Diane M. Bieneman & Stanley J. Moore, Attorneys for Pacific Bell and Nevada Bell on 4–12–84. Arthur H.

Simms, Lawrence P. Keller, Peter G. Wolfe & Thomas J. Casey, Attorneys for The Western Union Telegraph Company on 4–12–84.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–11637 Filed 4–30–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: Title of information collection: Summary of Deposits (Commercial and Savings Banks) (OMB No. 3064–0061).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389–4351.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB to approve revisions to the annual Summary of Deposits survey form FDIC 8020/05. The form is being revised to correspond with the deposit data collected on the March 1984 Call Report. The revised form will be used on the June 1984 Summary of Deposits survey. The FDIC uses the annual Summary of Deposits survey to obtain the amount of deposits in various types of categories held at all offices of banks with branches in the United States. The survey includes both commercial banks and savings banks. The survey data provide a basis for measuring the competitive impact of bank mergers and have additional use for studies in banking research. The revisions to the survey form will not affect the current estimated reporting burden of one hour annually for each reporting office.

Dated: April 20, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–11740 Filed 4–30–84; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

[Notice 1984–6]

Filing Dates for New Jersey Special Primary and General Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for New Jersey special primary and general elections.

SUMMARY: Committees required to file reports in connection with only the special primary election to be held in the 13th Congressional District of New Jersey on June 5, 1984, must file a 12-day pre-primary report by May 24, 1984, and a July 15 quarterly report due on July 15, 1984. Committees required to file reports in connection with *both* the special primary election *and* the special general election to be held on June 5, 1984, and November 6, 1984, respectively, must file a 12-day pre-primary report by May 24, 1984, a July 15 quarterly report by July 15, 1984, an October 15 quarterly report by October 15, 1984, a 12-day pre-general election report by October 25, 1984, and a 30-day post-election report by December 6, 1984.

After filing these reports, committees should resume filing reports on a quarterly basis.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street, NW., Washington, D.C. 20463, Telephone: (202) 523–4068, Toll-free: (800) 424–9530.

Notice of Filing Dates for Special Primary and Special General Elections, 13th Congressional District, New Jersey

All principal campaign committees of candidates in the special primary election and all other political committees not filing monthly reports which support candidates in this special primary election shall file a 12-day pre-primary election report due on May 24, 1984, with coverage dates from date of candidacy, or last report, through May 16, 1984, and a July 15 quarterly report due on July 15, 1984, with coverage dates from May 17, 1984, through June 30, 1984.

All principal campaign committees of candidates in the special primary election and the special general election and all other political committees not filing monthly reports which support candidates in these elections shall file a 12-day pre-primary election report due on May 24, 1984, with coverage dates from the date of candidacy, or last report, through May 16, 1984, a July 15 quarterly report due on July 15, 1984, with coverage dates from May 17, 1984, through June 30, 1984, an October 15 quarterly report due on October 15, 1984, with coverage dates from July 1, 1984, through September 30, 1984, a 12-day pre-general election report due on October 25, 1984, with coverage dates from October 1, 1984, through October 17, 1984, and a 30-day post election report due on December 6, 1984, with coverage dates from October 18, 1984, through November 26, 1984.

After filing these reports, committees should resume filing reports on a quarterly basis.

Dated: April 25, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–11651 Filed 4–30–84; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Financial Assistance; Massachusetts et al.

Notice of award of Financial Assistance is hereby given that the Federal Emergency Management Agency, under the Fire Prevention and Control Act of 1974, will award assistance to ten key states in each of the Federal Emergency Management Agency's (FEMA) regions: Massachusetts, New York, Pennsylvania, Tennessee, Illinois, Louisiana, Iowa, Utah, California and Alaska.

The purpose of this assistance is to increase the scope and effectiveness of local fire prevention and control efforts through a unique merger of the resources of federal, state and local fire services with the resources of the private sector to create and support existing community-based volunteer programs. The proposed assistance will enhance community-based fire prevention and control programs using federal funding and/or technical assistance delivered through a well defined network of federal, state, local and private sector support activities.

This assistance will strengthen existing fire safety programs and create

new ones, all across the spectrum of fire protection, through financial and technical assistance and educational outreach. FEMA will enlist and use community volunteers as the principal agent through which the program can work.

Award of this assistance is expected August 1, 1984.

Fred J. Villella,

Associate Director, Training and Fire Programs/National Emergency Training Center.

[FR Doc. 84-11640 Filed 4-30-84; 8:45 am]
BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of May 1984.

Rape Prevention and Control Advisory Committee

May 14–15; 9:00 a.m.

Conference Room "I", Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Open

Contact: Mary Lystad, Ph.D., Executive Secretary, Rape Prevention and Control Advisory Committee, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1910

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health through the National Center for the Prevention and Control of Rape (NCPCR), on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. It will include discussions of research guidelines of the NCPCR, victim assistance activities of NCPCR and the National Institute of Justice, research gaps in the field of sexual assault, and innovative research methods for future study.

National Advisory Council on Drug Abuse

May 15–16; 9:00 a.m.

National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20205

Open—May 15; 9:00 a.m.–12 noon, May 16; 9:00 a.m.–5:00 p.m.

Closed—Otherwise

Contact: Ms. Sheila Gardner, Room 10A–53, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–6720

Purpose: The Council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Admininistration, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Agenda: From 9:00 a.m.–12 noon, May 15, and from 9:00 a.m.–5:00 p.m., May 16, the meeting will be open for discussion of administrative announcements, program development and policy issues. Otherwise, the Council will be performing final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

As time permits on May 16, from 3:30–5:00 p.m., the Council will hear statements from interested organizations in the drug abuse field. Persons interested in appearing should contact the Executive Secretary to be scheduled. The oral presentation shall be no longer than 10 minutes, although written statements may be submitted in supplement.

National Advisory Mental Health Council

May 21–23; 9:00 a.m.

May 21—National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20205

May 22–23—Parklawn Building, Conference Room M, 5600 Fishers Lane, Rockville, Maryland 20857

Open—May 21; 9:00 a.m.–5:00 p.m.

Closed—Otherwise

Contact: Ms. Helen W. Garrett Committee Management Officer, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 433–4333

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the department in the field on mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Agenda: On May 21, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public for the open session will be limited to space available. Otherwise, the Council will conduct a final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Board of Scientific Counselors, NIMH

May 24–26; 9:00 a.m.

National Institutes of Health, Building 36, Coference Room 1B–07, Bethesda, Maryland 20205

Open—May 24; 9:00–9:15 a.m.

Closed—Otherwise

Contact: Dr. Frederick K. Goodwin, National Institutes of Health, Building 10, Room 4N–224, Bethesda, Maryland 20205, (301) 496–3501

Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: The Board will meet in Building 36, Conference Room 1B–07, Bethesda, Maryland, for approximately 15 minutes for a report by the Director of Intramural Research, NIMH, on recent

administrative developments. The remainder of the sessions will be devoted to a review of the intramural research projects from the Laboratory of Cell Biology, and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Board of Scientific Counselors, NIAAA

May 25; 9:00 a.m.

Flow Building, Room 51, 12501 Washington Avenue, Rockville, Maryland 20852
Open—May 25; 9:00–9:15 a.m.
Closed—Otherwise
Contact: Laura S. Rosenthal, Deputy Director, Division of Intramural Research, NIAAA, Flow Building, Room 2, 12501 Washington Avenue, Rockville, Maryland 20852, (301) 443–1073

Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIAAA, on the alcohol intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: The Board will meet in the Flow Building for approximately 15 minutes for a report on recent administrative developments. The remainder of the session will be devoted to a review and evaluation of intramural projects and individual staff scientists in the Division of Intramural Research, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Services Research Subcommittee of the Epidemiologic and Services Research Review Committee

May 29–31; 9:00 a.m.

Georgetown Hotel, 2121 P Street, NW., Washington, D.C. 20037
Open—9:00–10:00 a.m.
Closed—Otherwise
Contact: Gloria Yockelson, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., May 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

National Advisory Council on Alcohol Abuse and Alcoholism

May 31–June 1; 9:00 a.m.

National Institutes of Health, Wilson Hall, Building 1, 9000 Rockville Pike, Bethesda, Maryland 20205
Open—May 31; 9:00 a.m.–1:00 p.m., June 1; 9:00 a.m.–adjournment
Closed—Otherwise
Contact: Mr. James Vaughan, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375

Purpose: The Council advises the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Alcohol Abuse and Alcoholism regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scietific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: On May 31, from 9:00 a.m.–1:00 p.m. and June 1, from 9:00 a.m. to adjournment (open sessions), the meeting will be devoted to general business of the Council and a discussion of current budget, legislative and program activities.

On May 31, from 1:00 p.m. to adjournment (closed session) the Council will conduct a final review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

May 31–June 1; 9:00 a.m.

Sheration Washington Hotel 2660 Woodley Road, N.W., Washington, D.C. 20008
Open—May 31; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Pamela J. Mitchell, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., May 31, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: April 26, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84-11682 Filed 4-30-84; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 83N-0424]

Revisions of Certain Food Chemicals Codex, 3d Ed., Monographs; Opportunity of Public Comment; Extension of Comment Period

Correction

In FR Doc. 84-9301 appearing on page 13925 in the issue of Monday, April 9, 1984, make the following correction: In column one, SUMMARY, line nineteen, "Infact" should read "Infant".

BILLING CODE 1505-01-M

[Docket No. 84D-0092]

Effective Date for Action Levels for Ethylene Dibromide in Processed Grain Products

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the effective date for the action levels for residues of ethylene dibromide (EDB) in processed grain products that were established in its announcement of the availability of FDA's Compliance Policy Guide 7120.23, Attachment M. These action levels are based on recommendations from the Environmental Protection Agency (EPA) and are established in conjunction with EPA's tolerance for residues of EDB *per se* in grains. In the **Federal Register** of April 23, 1984, EPA revoked the exemption from the requirement of a tolerance for organic bromide residues in grains (49 FR 17144) and established a tolerance for residues of EDB *per se* (49 FR 17145) effective April 23, 1984.

EFFECTIVE DATE: April 23, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Taylor, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-310), Food and Drug Administration, 200 C St. SW., Washington, DC. 20204.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 3, 1984 (49 FR 13195), FDA announced the availability of Compliance Policy Guide 7120.23, Attachment M, that established action levels of 150 parts per billion (ppb) for residues of EDB *per se* in milled products, such as flour, and 30 ppb for residues of EDB *per se* in finished (ready-to-eat) consumer products.

In its notice, FDA announced that it would begin enforcing these action levels when EPA took final action on EPA's February 22, 1984 proposal (49 FR 6696) to revoke the exemption from the requirement of a tolerance for organic bromides on grains. FDA announced in its notice that the action levels would become effective on the effective date of EPA's final rule based on the February 22 proposal.

FDA's action levels are related to EPA's actions concerning the use of the insecticide EDB as a fumigant for grain stored in bulk and as a fumigant for spot treatment of grain milling equipment. Because of the carcinogenic potential of EDB, in the **Federal Register** of February 6, 1984 (49 FR 4452), EPA announced the emergency suspension of the use of this insecticide. As noted above, in the **Federal Register** of February 22, 1984 (49 FR 6696), EPA published a proposal to revoke the exemption from the requirement of a tolerance for organic bromide residues on various grains resulting from the use of EDB as a postharvest fumigant, as well as companion proposals (49 FR 6699, 6700, and 6702) to revoke the tolerances for inorganic bromide residues in grains and grain-based products. In the same issue of the **Federal Register** (49 FR 6697), EPA also proposed a tolerance of 900 ppb for residues of EDB in barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat to cover residues that resulted from treatment of the grain with EDB before the effective date of the suspension order.

In the **Federal Register** of April 23, 1984 (49 FR 17144-17149), EPA published the final rules based on the February 22 proposals. The effective date of these final rules is April 23, 1984.

FDA announces that the action levels described in the April 3, 1984 notice were effective April 23, 1984, the effective date of EPA's final rules regarding residues of EDB in grains (49 FR 17144).

Dated: April 25, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-11641 Filed 4-30-84; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness and use (indication) of Nuclear Magnetic Resonance (NMR) imaging. Specifically, we are interested in: (1) Data that would support specific applications of this technology where it has been demonstrated to be effective as a method of diagnostic imaging, (2) specific indications for use of NMR imaging, and (3) a comparison of NMR imaging with other diagnostic techniques, (4) information as to where NMR fits into the overall scheme of diagnostic imaging in the evaluation of disease states. Moreover this assessment seeks to identify specific and unique applications of this diagnostic imaging modality.

For purposes of this assessment, the term NMR includes all methods of zeugmatographic imaging that employs a gradient magnetic field joining a radio frequency magnetic field at a desired local spatial region through magnetic resonance. It includes those devices with permanent, resistive or super conductive magnets. We are interested in all medical uses of computer-assisted tomographic magnetic imaging (NMR).

The PHS assessment will consist of a synthesis of information obtained from appropriate organizations in the private sector, from PHS agencies, and from other Departments and agencies throughout the Federal Government. PHS assessments are based on the most current clinical and scientific knowledge concerning the safety, clinical effectiveness and acceptability of a technology. Based on this assessment, a PHS report as well as a recommendation will be formulated to assist the Health Care Financing Adminstration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than July 30, 1984, or within 90 days of the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the

patient population most most likely to benefit, the clinical acceptability, and the effectiveness of this technology is also being sought. Proprietary information is not being requested, but any published information may be submitted.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available at the above address or by telephone (301) 443–4990.

Dated: April 20, 1984.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84–11728 Filed 4–30–84; 8:45 am]

BILLING CODE 4160–17–M

Statement of Organization, Functions and Delegations of Authority; Office of the Assistant Secretary for Health

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 49 FR 4437, February 6, 1984), is amended to reflect revisions to the functional statement for the Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, and to abolish the Office of Health Information, Health Promotion, and Physical Fitness and Sports Medicine.

Under Part H, Chapter HA, Office of the Assistant Secretary for Health (OASH), Section HA–20 Functions, delete in their entirety the titles and statements for the *Office of Disease Prevention and Health Promotion (HA8)* and substitute the following:

Office of Disease Prevention and Health Promotion (HA8). The Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion) serves as the principal advisor to the Assistant Secretary for Health and the Surgeon General on policies and procedures which relate to disease prevention, health promotion, and preventive health services. The Office: (1) Provides a focal point for coordinating all policies and activities within the Department which relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care; (2) coordinates these activities with similar activities in the private sector; (3) provides leadership, coordination and monitoring for the national effort to achieve the measurable objectives which provide the basis for the U.S. national prevention strategy; (4) sponsors the National Health Promotion Program and provides management oversight for cooperative agreements with major national organizations to fund special health promotion activities such as community networks, schools, clinical, and worksite initiatives, and other prevention initiatives; (5) disseminates information to the public through a national health information clearinghouse concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care and assists in the analysis of issues and problems relating to these matters; (6) supports projects, conducts research, evaluates programs, and disseminates information relating to disease prevention, health promotion, and physical fitness; and (7) coordinates and provides advice and direction on special departmental initiatives on disease prevention and health promotion activities such as risk assessment and nutrition policy.

Dated: April 20, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84–11729 Filed 4–30–84; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–84–1377; FR–1956]

Mutual Mortgage Insurance and Rehabilitation Loans; Changes to the Maximum Mortgage Limits

AGENCY: Office of Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to the FHA single family maximum mortgage limits for high-cost areas.

SUMMARY: This Notice revises the listing of areas eligible for "high-cost" mortgage limits under HUD's single family insuring authorities by adding six new areas. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: May 1, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755–8720. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701–1749) authorizes HUD/FHA to insure mortgages for single family residences. These include one- to four-family residences (see section 203) and one-family units in condominiums (see section 234(c)). The Housing and Community Development Act of 1980 amended the NHA to permit HUD to change the maximum mortgage amounts under these programs to reflect regional differences in the cost of housing. Section 214 of the NHA provides special high-cost limits for Alaska, Guam, and Hawaii.

Section 203 Programs. Sections 203 of the NHA is the seminal provision for the insurance of mortgages covering single family residences, and many other NHA sections adopt the basic provisions contained in section 203. Other sections to which this Notice applies include: section 203(k), loan insurance for rehabilitation of a structure used primarily as a residence; section 213, cooperative housing insurance; section 220, rehabilitation and neighborhood conservation housing; section 222, mortgage insurance for servicemen; section 240, financing purchases for homeowners of the fee simple title to property on which homes are located; section 244, coinsurance; section 245, graduated payment mortgages; and sections 809 and 810, armed services housing mortgage insurance.

Under section 203, the Secretary may increase maximum mortgage limits on an area-by-area basis if the Secretary deems it necessary after considering the extent to which middle- and moderate-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 203 provides that the increase may not exceed the lesser of the following:

A. 133⅓ percent of $67,500 in the case of a one-family residence; 133⅓ percent of $76,000 in the case of a two-family residence; 133⅓ percent of $92,000 in the case of a four-family residence; or

B. 95 percent of the median one-family house price in the area, as determined by the Secretary for a one-family

residence; 107 percent of that median for a two-family residence; 130 percent of that median for a three-family residence; 150 percent of that median for a four-family residence.

Section 234 Program. Section 234 of the NHA authorizes mortgage insurance for one-family units in condominium projects. Under this section, the Secretary may increase the maximum mortgage amount on an area-by-area basis if the Secretary deems it necessary after considering the extent to which middle- and moderate-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 234 provides that the increase may not exceed the lesser of the following:

A. 111 percent of $67,500; or

B. 95 percent of the median one-family house price in the area, as determined by the Secretary.

Section 420 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, November 30, 1983) authorizes the Department to provide for maximum mortgage limits for one-family units in condominiums which are the same as maximum mortgage limits for one-family residences under section 203(b) of the NHA. The Department published on April 11, 1984 (49 FR 14336), a final rule to implement that provision. The final rule will be effective on May 22, 1984. A comprehensive revision of high-cost limits, including revised high-cost limits for condominium units, will be published by notice in time for effectiveness on May 22, 1984. The high-cost limits announced in this notice will be included as well in the upcoming comprehensive revision.

Section 214 Program. In addition to the "high-cost" limits discussed above, the NHA provides special limits for Alaska, Guam, and Hawaii. Section 214 states that if the Secretary determines that, because of higher prevailing costs, it is not feasible to construct dwellings in those areas without sacrificing sound standards of construction, design or livability, the mortgage limits may be increased beyond the statutory "high-cost" area limits indicated above. These limits, however, may not exceed the otherwise applicable amounts by more than one-half.

This Notice

This Notice identifies six new "high-cost" areas and the new maximum mortgage limits for these areas.

The statutory NHA mortgage dollar limits are specified in 24 CFR 203.18(a) and 234.27(a). 24 CFR 203.18(a) and 234.27(b) authorize the Federal Housing Commissioner to raise these statutory mortgage limits and previously published increased amounts by publishing revised dollar limitations in the **Federal Register.**

A complete, updated list of all "high-cost" areas previously was published in the **Federal Register** on December 6, 1983 (see 48 FR 54703).

Future Changes to Maximum Mortgage Amounts

Any party is invited to request a change in a maximum mortgage limit if the party believes that the otherwise applicable limit for the area (whether or not it contains a "high-cost" adjustment) does not accurately reflect the extent to which moderate- and middle-income persons have limited housing opportunities because of high prevailing housing sales prices. Any person may submit documentation in support of an alternative maximum mortgage limit. Where possible, the documentation should include: (1) A sample listing of actual sales prices for both new and existing one-family homes, including condominium sales prices. This listing should contain a brief address of each property, county location, the sales price, month and year of sale and whether the property is new or existing; and (2) the actual or estimated median sales price for all new and existing home sales included in the sample. Any sample should be representative of the total sales that were made during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the mortgage limit may be based on 95 percent of the average of the new and the existing median sales prices. Therefore, in these areas, the documentation may also include separate median sales prices for both the new existing homes.

If a party believes that the otherwise applicable mortgage limit in Alaska, Guam or Hawaii needs to be increased to reflect the extent to which high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design or livability, the party may submit documentation in support of an alternative mortgage limit. This documentation should include actual or estimated costs of such items as design, construction, materials, and labor. In addition, actual sale prices of new homes may be submitted, together with any other documentation requested by the Commissioner.

In all cases, requests for adjustments to maximum mortgage limits, together with supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the documented request and supporting material, with the field office's recommendations, to the Commissioner for determinations.

The information collection procedure described above was submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501—3520) and has been assigned OMB Control Number 2502-0302.

Accordingly, the Commissioner is hereby expanding the list of section 203(b) and section 234(c) "high-cost" area, with revised dollar limits as set forth below:

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	Mortgage limits			
	1 family	2 family	3 family	4 family
Region IV				
HUD FIELD OFFICE: GREENSBORO OFFICE				
Mecklenburg County	$76,000	$85,500	$103,500	$120,500
HUD FIELD OFFICE: LOUISVILLE OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Boone County, KY	$80,750	$90,950	$110,500	$127,500
Campbell County, KY				
Kenton County, KY				
Region V				
HUD FIELD OFFICE: CINCINNATI OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Clermont County, OH	$80,750	$90,950	$110,500	$127,500
Hamilton County, OH				
Warren County, OH				
Hamilton-Middleton, OH PMSA				
Butler County	$80,750	$90,950	$110,500	$127,500
HUD FIELD OFFICE: INDIANAPOLIS OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Dearborn, IN	$80,750	$90,950	$110,500	$127,500
Region X				
HUD FIELD OFFICE: SEATTLE OFFICE				
Bremerton, WA MSA				
Kitsap County	$80,200	$90,350	$109,750	$126,650

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	Mortgage limits Condominium unit
Region IV	
HUD FIELD OFFICE: GREENSBORO OFFICE	
Mecklenburg County	$74,900
HUD FIELD OFFICE: LOUISVILLE OFFICE	
Cincinnati, OH-KY-IN PMSA (part)	
Boone County, KY	$74,900
Campbell County, KY	
Kenton County, KY	
Region V	
HUD FIELD OFFICE: CINCINNATI OFFICE	
Cincinnati, OH-KY-IN PMSA (part)	
Clermont County, OH	$74,900
Hamilton County, OH	
Warren County, OH	
Hamilton-Middleton, OH PMSA	
Butler County	$74,900
HUD FIELD OFFICE: INDIANAPOLIS OFFICE	
Cincinnati, OH-KY-IN PMSA (part)	
Dearborn, IN	$74,900
Region X	
HUD FIELD OFFICE: SEATTLE OFFICE	
Bremerton, WA MSA	
Kitsap County	$74,900

Dated: April 25, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 84-11725 Filed 4-30-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Worland District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) and the Federal Land Policy and Management Act (Pub. L. 94-579), notice is hereby given of a meeting of the Worland District Grazing Advisory Board to be held at 9:00 a.m., June 5, 1984, in a conference room of the Elks Club, 604 Coburn Ave., Worland, Wyoming.

The agenda for this meeting includes:

1. Election of chairman and vice-chairman
2. Discussion on range improvement project planning
3. Review of FY 1984 range improvement projects
4. Discussion and Recommendations for proposed FY 1985 & 1986 range improvement projects; Cody Resource Area (RA), Washakie RA, and Grass Creek RA.
5. Range Management Report (Including Allotment Management Plans, Grazing Decisions, Allotment Categorization, livestock operator consultation and coordination) for Cody RA, Washakie RA, and Grass Creek RA.
6. Recommendations for Cooperative Management Agreements
7. Opportunity for the public to present information or make comments

The meeting will be open to the public. Interested persons may make oral statements to the Board during the public comment period, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager by May 30, 1984.

DATE: June 5, 1984, 9:00 a.m.

ADDRESS: Elks Club, 604 Coburn Avenue, Worland, Wyoming.

FOR FURTHER INFORMATION CONTACT: Chester E. Conard, District Manager, Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming 82401, (307) 347-6151.

SUPPLEMENTARY INFORMATION: Summary minutes of this meeting will be on file in the District Office and available for public inspection (during regular business hours) within 30 days of the meeting.

Chester E. Conard,

District Manager.

[FR Doc. 84-11692 Filed 4-30-84; 8:45 am]

BILLING CODE 4310-22-M

Oregon and Washington; Spokane Resource Management Plan, Summary of Proposed Land Use Alternatives

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Spokane RMP Summary of Proposed Land Use Alternatives Document and Invitation to Comment.

SUMMARY: Pursuant to 43 CFR 1610.3 and 1610.4-5 of the regulations for Resource Management Planning, the Department of the Interior, Bureau of Land Management, Spokane District Office has developed proposed land use alternatives to facilitate scoping of the Spokane Resource Management Plan/Environmental Impact Statment (RMP/EIS). To date no scoping meetings have been scheduled, however, if a need is identified as a result of this notice, appropriate meetings would be scheduled and notification would be made in local news media stating the specific time and places for such meetings.

SUPPLEMENTARY INFORMATION: The plan will result in land use allocations and resource management directions for approximately 307,000 acres of public land in Washington. The planning area is located in eastern Washington and is bordered by the Cascade Mountain Range to the west, Canadian Border to the north, and the states of Oregon to the south, and Idaho on the east. BLM administers the public land in this area from the District Office in Spokane, Washington. The major issues which were used to help direct the formulation of land use plan alternatives for the planning area, were identified through the judgment of the interdisciplinary planning team, from inter-governmental consultation, public input and review by BLM managers. The major resource management issues include grazing management, land tenure adjustment, access to public land, minerals management, recreational management, and wildlife habitat management.

The draft plan and EIS will be available for public review in the fall of 1984, and the final statement is scheduled to be completed in May of 1985. Decision making will take place in the fall of 1985, and include publication of a Record of Decision and Rangeland Program Summary. The original notice of intent to prepare the Spokane RMP/EIS was published in the **Federal Register** and local news media on July 21, 1983.

Copies of the Spokane RMP summary of proposed land use alternatives have been sent to the District's current mailing list. Copies also are available for review at:

BLM, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202
BLM, Coeur d'Alene District Office, 1808 North 3rd Street, Coeur d'Alene, ID 83814
BLM, Oregon State Office, 825 N.E. Multnomah Street, Portland, OR 97208
Yakima Valley Regional Library, 102 N. 3rd Street, Yakima, WA 98901
The Lamplighter Tape and Book Library, 716 S. College, College Place, WA 95324
Goldendale E. Community Library, 131 W. Burgen, Goldendale, WA 98620
University of Washington Library, Government Publications Division FM-25, Seattle, WA 98195
Washington State University, 310 Holland, Science Library, Pullman, WA 99163
King County Library System, 200-8th North, Seattle, WA 98109

Benton City Public Library, City Hall, Benton City, WA 99320
Mid Columbia Library, 405 S. Dayton, Kennewick, WA 99336
Pasco Public Library, 1320 W. Hopkines, Pasco, WA 99301
Richland Public Library, Swift and Northgate, Richland, WA 99352
West Richland Library, 5 4456 W. Van Giesen, West Richland, WA 99352
Spokane Public Library, Main Branch, W. 906 Main, Spokane, WA 99201
Olympia Public Library, East 8th and Franklin, Olympia, WA 98501

The public is invited to submit written comments by June 11, 1984, on (1) the elements which should be in the preferred alternative plan (or proposed action); (2) ideas on the formulation of other alternatives which should be addressed in the EIS; (3) ideas on issues which should be addressed in the EIS; and (4) factors or criteria which should be used in the development or selection of the preferred alternative. Comments or questions may also be presented in person at the District Office in Spokane, Washington.

Written public comments will be available for public review in the District Office. The final plan will be approved by the BLM, Oregon-Washington State Director. Additional information may be obtained or viewed at the Spokane District Office during regular business hours (7:45 a.m.—4:30 p.m.).

DATE: Comments must be received by June 11, 1984.

ADDRESS: Written comments, requests for copies of the summary document, or requests for further information should be directed to:

Joseph K. Buesing, District Manager, Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202, Telephone: (509) 456-2570.

Dated: April 24, 1984.

Joseph K. Buesing,

District Manager.

[FR Doc. 84-11710 Filed 4-30-84; 8:45 am]

BILLING CODE 4310-33-M

Colorado; Filing of Plat of Survey

April 24, 1984.

The plat of survey of the following described lands was officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., April 24, 1984.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 22, T. 3 N., R. 102 W., Sixth Principal Meridian, Colorado, Group No. 742, was accepted April 18, 1984.

The survey was executed to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 84-11693 Filed 4-30-84; 8:45 am]

BILLING CODE 4310-84-M

Ukiah District, California, Advisory Council Meeting

Notice is hereby given in accordance with Public Laws 94-579 and 43 CFR 1780 that a meeting of the Ukiah District Advisory Council will be held on Wednesday, May 9, 1984.

The meeting will begin at 10:00 a.m. in the Bureau of Land Management conference room, 555 Leslie Street, Ukiah, California.

Short notice of this meeting is the result of a need identified at the Council's April 19, 1984, meeting to review nominations and appoint individuals to a technical review team, who will make a recommendation to the Ukiah District Advisory Council on the wilderness suitability of the King Range and Chemise Mountain wilderness study areas, Humboldt and Mendocino counties, California.

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements of the council's consideration. Opportunity for public comment will be provided at 1:00 p.m., May 9, 1984.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated April 23, 1984.

Edwin G. Katlas,

Acting District Manager.

[FR Doc. 84-11653 Filed 4-30-84; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Alaska Outer Continental Shelf; Dates, Times, and Locations of Public Scoping Meetings Regarding the Environmental Impact Statement for Proposed Oil and Gas Lease Sale No. 100, Norton Basin

The March 5, 1984, **Federal Register**, Vol. 49, No. 44, pages 8084 through 8088, contained a Call for Information and a Notice of Intent to prepare an environmental impact statement (EIS) for proposed oil and gas Lease Sale No. 100, Norton Basin.

The Notice of Intent announced the scoping process that will be followed for the preparation of the EIS. The scoping process will involve Federal, State, local governments, and other interested parties aiding the Minerals Management Service in determining the significant issues and alternatives to be analyzed in the EIS.

For the purposes of these scoping meetings, we are soliciting comments on the Norton Basin planning area as described in the March 5 **Federal Register** Notice mentioned above. It is hoped that the information received at the scoping meetings will aid in identifying the specific proposal and alternatives.

The scoping meetings will be held on the following dates and at the locations and times indicated:

April 30, 1984

Mini Convention Center, Nome, Alaska (7:00 p.m.)

May 1, 1984

IRA Hall, Savoonga, Alaska (7:00 p.m.)

May 2, 1984

Community Hall, Gambell, Alaska (7:00 p.m.)

May 3, 1984

School Multi-purpose Room, Unalakleet, Alaska (7:00 p.m.)

Additional information concerning these meetings can be obtained from the Office of the Alaska Region, Leasing and Environment Office, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510, telephone (907) 261-2414.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-11639 Filed 4-30-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 20, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments should be submitted by May 16, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Jefferson County

Birmingham, *Claridge Manor Apartments (Apartment Hotels in Birmingham, 1900–1930, TR)*, 1100 27th St. S.
Birmingham, *Highland Plaza Apartments (Apartment Hotels in Birmingham, 1900–1930, TR)*, 2250 Highland Ave. S.
Birmingham, *Ridgely Apartments (Apartment Hotels in Birmingham, 1900–1930, TR)*, 608 21st St. N.

Madison County

Huntsville, *Building at 105 N. Washington Street (Downtown Huntsville M R A)*, 105 N. Washington St.

Montgomery County

Montgomery, *Jackson, Jefferson Franklin House*, 409 S. Union St.

ARIZONA

Pima County

Valencia Site (BB:13:15; BB:13:75).

CALIFORNIA

Los Angeles County

Los Angeles, *Alvarado Terrace Historic District*, Alvarado Terr., Bonnie Brae and 14th Sts.
Los Angeles, *Friday Morning Club*, 938–940 S. Figueroa St.

Orange County

Balboa, *Balboa Pavilion*, 400 Main St.

Sacramento County

Sacramento, *Calpak Plant No. 11*, 1721 C St.

Santa Cruz County

Santa Cruz vicinity, *Glen Canyon Covered Bridge*, Branciforte Dr.

COLORADO

Denver County

Denver, *Denver City Railway Company Building*, 1635 17th St., 1734–1736 Wynkoop St.

El Paso County

Colorado Springs, *Emmanuel Presbyterian Church*, 419 Mesa Rd.

Gunnison County

Gunnison, *Webster Building*, 229 N. Main St.

Logan County

Sterling vicinity, *Luft, Conrad Sr., House*, 1429 CO 14
Sterling, *Harris, W.C., House*, 102 Taylor St.

Otero County

La Junta, *Finney, Dr. Frank, House*, 608 Belleview Ave.
La Junta, *Sciumbato, Daniel, Grocery Store*, 706 Second St.

Pueblo County

Pueblo, *Henkel-Duke Mercantile Company Warehouse*, 212–222 W. Third Ave.
Pueblo, *Rood Candy Company Building*, 408–416 W. 7th St.
Pueblo, *Wolter, Martin, House*, 300 W. Abriendo Ave.

Teller County

Goldfield, *Goldfield City Hall and Fire Station*, Victor Ave. and 9th St.
Victor, *Midland Terminal Railroad Depot*, 230 N. Fourth St.

Weld County

Greeley, *Woodbury, Joseph A., House*, 1124 Seventh St.

CONNECTICUT

Fairfield County

Norwalk, *Loth, Joseph, Company Building*, 25 Grand St.

GEORGIA

Clay County

Fort Gaines, *Fort Gaines Historic District*, Roughly bounded by Chattahoochee River, GA 37, GA 39, College, Commerce and Jefferson Sts.

Fulton County

Atlanta, *Peachtree Christian Church*, 1580 Peachtree St. NW.

Marion County

Buena Vista vicinity, *Shiloh-Marion Baptist Church and Cemetry*, GA 41.

Muscogee County

Columbus, *Adams Cotton Gin Building*, 6601 Hamilton Rd.
Columbia, *Liberty Theater*, 821 Eighth Ave.

ILLINOIS

Washington County

Nashville, *Louisville and Nashville Depot*, 101 E. Railroad St..

INDIANA

Lake County

Gary, *West Fifth Avenue Apartments Historic District*, Roughly 5th Ave. from Taft to Pierce St.

Marion County

Indianapolis, *General German Protestant Orphans Home*, 1404 S. State St.
Indianapolis, *Selig's Dry Goods Company Building*, 20 W. Washington St.

Tipton County

Tipton, *Tipton County Jail and Sheriff's Home*, 203 S. West St.

Vanderburgh County

Evansville, *Culver Historic District*, Roughly bounded by Madison Ave., Riverside Dr., Emmett and Venice Sts.

MASSACHUSETTS

Bristol County

Attleboro, *Hebronville Mill Historic District*, Knight Ave., Read and Phillip Sts.
New Bedford, *Smith, Bradford, Building*, 1927–1941 Purchase St.

Hampden County

Monson, *Memorial Town Hall*, Main St.

Middlesex County

Monson, *Hoyt-Shedd Estate*, 386–396 Andover St., 569–579 E. Merrimack St.

Norfolk County

Wrentham, *Roebuck Tavern*, 21 Dedham St.

MICHIGAN

Ingham County

Lansing, *State Office Building*, 316 S. Walnut St.

MINNESOTA

Freeborn County

Albert Lea, *Albert Lea City Hall*, 212 N. Broadway Ave.

Redwood County

Delhi, *Delhi Coronet Band Hall*, Third St.

MISSISSIPPI

Harrison County

Biloxi, *Bailey House (Biloxi M R A)*, 1333 E. Beach Blvd.
Biloxi, *Barq, E., Pop Factory (Biloxi M R A)*, 224 Keller Ave.
Biloxi, *Biloxi's Tivoli Hotel (Biloxi M R A)*, 863 E. Beach Dr.
Biloxi, *Bond House (Biloxi M R A)*, 925 W. Howard Ave.
Biloxi, *Brielmaier House (Biloxi M R A)*, 436 Main St.
Biloxi, *Bruet-Fourchy House (Biloxi M R A)*, 138 Magnolia St. Mall.
Biloxi, *Church of the Redeemer (Biloxi M R A)*, Bellman St.
Biloxi, *Clemens House (Biloxi M R A)*, 120 W. Water St.
Biloxi, *Fisherman's Cottage (Biloxi M R A)*, 262 E. Bayview Ave.
Biloxi, *Gulf Coast Center for the Arts (Biloxi M R A)*, 138 Lameuse St.
Biloxi, *Hermann House (Biloxi M R A)*, 523 E. Beach Blvd.
Biloxi, *House at 121 W. Water Street (Biloxi M R A)*, 121 W. Water St.
Biloxi, *Nativity B.V.M. Cathedral (Biloxi M R A)*, W. Howard Ave. and Fayard St.
Biloxi, *Peoples Bank of Biloxi (Biloxi M R A)*, 318 Lameuse St.
Biloxi, *Redding House (Biloxi M R A)*, 126 W. Jackson St.
Biloxi, *Saenger Theater (Biloxi M R A)*, 416 Reynoir St.
Biloxi, *Scherer House (Biloxi M R A)*, 206 W. Water St.
Biloxi, *Seashore Campground School (Biloxi M R A)*, Leggett Dr. and Chalmers St.
Biloxi, *Suter House (Biloxi M R A)*, 165 Suter Pl.
Biloxi, *Swetman, Glenn, House (Biloxi M R A)*, 2770 Wilkes Ave.
Biloxi, *West Beach Historic District (Biloxi M R A)*, Roughly U.S. 90 between Rosell and Chalmers Ave.
Biloxi, *West Central Historic District (Biloxi M R A)*, Roughly bounded by U.S. 90, Hopkins Blvd., Howard and Benachi Aves.

Jackson County

Pascagoula, *Front Street Historic District*, 2810, 2816, 2905, 2914, 2916 Front St.

NEW MEXICO

Grant County

Pinos Altos, *Pinos Altos Historic District,* Roughly bounded by Gold Ave., Cherry, Main, Church and Silver Sts.

PENNSYLVANIA

Lancaster County

Marietta, *Marietta Historic District (Boundary Increase),* Bounded by Waterford Ave., Clay, Prospect, and Front Sts.

SOUTH CAROLINA

Dillon County

Latta, *Latta Historic District No. 1 (Latta M R A),* Church, Marion, Bethea, Rice, Dew, Mauldin, and Main Sts.
Latta, *Latta Historic District No. 2 (Latta M R A),* Richardson St., Bamberg to Oak Sts.
Latta, *McMillan House (Latta M R A),* 206 Marion St.

York County

Rock Hill, *Stokes-Mayfield House,* 353 Oakland Ave.

TENNESSEE

Hamilton County

Hampton Place Archeological Site (40 H A 146) (Moccasin Bend M R A),
Mallards Dozen Archeological Site (40 H A 147) (Moccasin Bend M R A),
Stringer Ridge Historic District (Moccasin Bend M R A),
Vulcan Archeological Site (40 H A 140) (Moccasin Bend M R A),
Woodland Mound Archeological District (Moccasin Bend M R A),

UTAH

Duchesne County

Roosevelt, *Toyack Future Farmers of America Chapter House,* 340 N. 300 West

Salt Lake County

Sandy, *Jordan High School,* 9351 S. State St.

Summit County

Francis, *Mitchell, Byron T., House,* U.S. 189 and U T 35

Tooele County

Tooele, *Tooele Valley Railroad Complex,* 35 N. Broadway

[FR Doc. 84-11423 Filed 4-30-84; 8:45 am]
BILLING CODE 4310-70-M

Proposed Revised Park Road Standards

AGENCY: National Park Service, Interior.

ACTION: Public Review and Opportunity For Comment.

SUMMARY: The National Park Service is proposing to adopt revised Park Road Standards to supercede existing standards adopted in 1968. The proposed standards will provide guidance for the planning, design, construction and rehabilitation of all park roads and parkways in the National Park System.

DATE: The National Park Service will consider all written comments received on or before May 31, 1984.

ADDRESS: Copies of the draft standards may be obtained by writing to Chief, Engineering and Safety Services Division, National Park Service, Department of the Interior, Washington, DC 20240, or in Room 2431, 1100 L Street NW, Washington, DC between 8 am and 4 pm Monday thru Friday. Comments may be mailed to the above address or delivered to Room 2431, 1100 L Street NW.

FOR FURTHER INFORMATION CONTACT: George Walvoort, Chief Highway Engineer, Engineering and Safety Services Division, National Park Service (202-343-7042) or Jim Straughan, Chief, Branch of Transportation, Denver Service Center (303-234-4567).

Dated: April 12, 1984.

Stanley T. Albright,

Associate Director, Park Operations.

[FR Doc. 84-11681 Filed 4-30-84; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30300]

CSX Corp.-Control-American Commercial Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of oral argument for the purpose of supplementing the record in proposed control proceeding.

SUMMARY: On November 4, 1983, as supplemented on November 25, 1983, CSX Corporation (CSX) and American Commercial Lines, Inc. (ACL) jointly filed an application under 49 U.S.C. 11321, 11343, and 11344 seeking authority for CSX to acquire control of ACL and its certificated water carrier subsidiary American Commercial Barge Lines, Inc. (ACBL). The application was accepted in a decision served December 2, 1983, 49 FR 54402 (December 2, 1983). Because of the importance of this application, oral argument will be heard on June 7, 1984, in Washington, D.C. Counsel for CSX shall provide a list of the order of persons arguing in support of the application and the time allocated to each. Counsel for the Water Transport Association (WTA) shall coordinate the appearances and time allocations for opponents. Members of Congress and individuals representing federal, state, and local governments and agencies who wish to appear shall contact the Commission's Office of Legislative Counsel.

DATES: The oral argument will be heard at 9:30 a.m. on June 7, 1984. Parties wishing to participate should contact CSX, WTA, or the Office of Legislative Counsel no later than May 24, 1984. CSX and WTA must submit to the Commission the list of parties who will speak no later than May 31, 1984. The Commission will then issue a schedule of appearances.

ADDRESSES: The oral argument will be heard in Hearing Room A at the Interstate Commerce Commission Building, 12th St. and Constitution Ave., NW., Washington, D.C.

If you desire to participate, please contact, as appropriate:

Office of Legislative Counsel, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 275-7231.
CSX c/o R. Eden Martin, Sidley & Austin, 1722 Eye Street, NW., Washington, D.C. 20006, 202-429-4000.
WTA, c/o Richard A. Zellner, Hahn, Loeser, Freedheim, Dean & Wellman, 800 National City E. 6th Building, Cleveland, Ohio 44114, 216-621-0150.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Approximately one hour at the beginning of the oral argument will be allowed for appearances by Members of Congress and individuals representing federal, state, and local governments or agencies who wish to be heard. These persons should contact the Commission's Office of Legislative Counsel no later thn May 24, 1984, to indicate their intention to appear. The request should indicate the amount of time sought for argument.

Parties supporting approval of the application will then be given one hour for argument. Any part of that time may be reserved for rebuttal following opponents' arguments. Counsel for CSX shall coordinate the appearances and time allocations for these parties. The next hour of argument will be designated for parties opposed to the application. Counsel for the WTA shall coordinate the appearances and time allocations for the opponents. Each party designated to speak should be assigned no less than 10 minutes for presentation of argument.

On May 31, 1984, Counsel for CSX and Counsel for WTA shall provide a list of the order of persons in support of and opposed to the application and the time allocated to each. A schedule of appearances will be issued before the argument, naming the individuals

presenting argument and their time allocations.

All parties presenting arguments shall, at the time of argument, submit to the Commission 10 written copies of their prepared argument and any supporting exhibits. The written argument should correspond to the oral argument, and will be made part of the record. The points in the record will be considered even if not reached during the oral presentations.

This notice is issued under the authority of 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: April 24, 1984.

By the Commission, Chairman Reese H. Taylor, Jr.

Dated: April 24, 1984.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-11676 Filed 4-30-84; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-122 (Sub-No. 2)]

Motor Carriers; Lease of Equipment and Drivers to Private Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of court action and implementation of policy statement.

SUMMARY: In a decision served February 17, 1982, 47 FR 7885, February 23, 1982, the Commission adopted a policy statement pursuant to which owner-operators and others not possessing Commission operating authority may lease equipment and driving services, in a single transaction, to shippers or private carriers. Provided the terms of the lease and the actual practices of the parties meet the minimum criteria established for such leases, a presumption would arise that the resulting transportation is private carriage operated by the shipper, exempt from Commission jurisdiction under 49 U.S.C. 10524(a). The proceeding was challenged in court and on March 25, 1982, the Eleventh Circuit Court of Appeals stayed implementation of the new policy pending judicial review. On October 11, 1983, the Eleventh Circuit affirmed the Commission's policy statement in Nos. 82-5247 and 82-8133, *Ryder Truck Lines, Inc.* v. *United States.* The court, however, maintained the stay pending the disposition by the Supreme Court of appellants' petition for a writ of certiorari. On April 2, 1984, the United States Supreme Court denied petitioners' petition for review of this proceeding in No. 83-943, *American Trucking Associations, Inc., et al.* v. *United States and Interstate Commerce Commission.* On April 6, 1984, the Eleventh Circuit issued its mandate dissolving the stay. Accordingly, the new policy is now effective.

EFFECTIVE DATE: This notice is effective on May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert G. Rothstein, (202) 275-7912, or Howell I. Sporn, (202) 275-7691.

Decided: April 24, 1984.

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

James H. Bayne,

Acting Secretary.

[FR Doc. 84-11677 Filed 4-30-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 7, 1983, Bio-Fine Pharmaceuticals, Inc., 3600 Cambridge, Las Vegas, Nevada 89109, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Morphine (9300)	II
Opium Extracts (9610)	II
Opium Fluid Extracts (9620)	II
Tincture of Opium (9630)	II
Powdered Opium (9639)	II
Granulated Opium (9640)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than May 31, 1984.

Dated: April 23, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-11689 Filed 4-30-84; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 21, 1983, M.D. Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than May 31, 1984.

Dated: April 20, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-11690 Filed 4-30-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committees; Meetings and Agenda

The regular spring meetings of committees of the Labor Research Advisory Council will be held on May 15, 16, and 17. The meetings on Tuesday, May 15, and Thursday, May 17, will be held in Room N-3437, and the

Wednesday, May 16, meeting in Room S–4215, all in the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

Tuesday, May 15

9:30 a.m.—Committee on Prices and Living Conditions

1. CPI and CPI Revision; Local area indexes
2. Status report on International Price Program
3. Status report on Consumer Expenditures Survey
4. Status report on Producer Price Index revision
5. Other Business

Tuesday, May 15

1:30 p.m.—Committee on Productivity, Technology, and Economic Growth

1. Status of Productivity Programs
   a. Hours Worked Survey
   b. Continuation of Work on Multifactor Productivity Measures
   (1) Manufacturing industries
   (2) Other factor inputs
   (3) Factors affecting slower productivity growth
   c. Federal, State and Local Government Productivity Programs
2. Status of foreign labor work
3. Review of Status of Economic Growth Programs
   a. Schedule for next projections
   b. Timing of reports to be published consistent with current set of projections
   (1) Occupational Outlook Handbook
   (2) Occupational Projections and Training Data
   (3) Detailed bulletin on 1995 projections
   c. Discussion of how technological change is incorporated in BLS projections
4. Other Business

Wednesday, May 16

9:30 a.m.—Committee on Wages and Industrial Relations

1. Review of Work in Progress
2. Review of 1985 budget for Wages and Industrial Relations
3. Collective Bargaining Settlements in 1983
4. Employee Benefits Survey data research
5. Discussion of Labor Research Wage Committee's resolution at December 1983 meeting on measurement of employer total compensation cost
6. Other Business

Thursday, May 17

9:30 a.m.—Committee on Employment Structure and Analysis

1. Status reports on: the Occupational Employment Statistics program, revision of the 790 program, revision of the CPS, development of new Local Area Unemployment Statistics methodology, and Census/BLS program on impact of imports
2. Plans for Mass Layoff, Plant Closing report
3. Report on CPS information on union membership and dislocated workers
4. Discussion of patterns of growth and earnings by industry
5. Other Business

Thursday, May 17

1:30 p.m.—Committee on Occupational Safety and Health Statistics

1. Status of recording of hearings loss study
2. Availability of SDS data during nonpublishing years
3. Report on last December's OSH conference
4. Warehouse and logging studies
5. Fatality and injury reports under Longshore and Harbor Workers' Compensation Act
6. Annual survey and status of Report 412
7. Quality Assurance Survey and first year initiatives
8. Relations with NIOSH
9. *Monthly Labor Review* articles planned for fall Centennial issue

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523–0001.

Signed at Washington, D.C. this 24th day of April 1984.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 84–11739 Filed 4–30–84; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Calhoun Manufacturing et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 11, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 11, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of April 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

BILLING CODE 4510–30–M

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Calhoun Manufacturing Div. of Modern Juniors (workers)	St. Matthews, SC	4/18/84	4/13/84	TA–W–15,304	Sportswear—ladies'.
G.H. Bass & Co. (company)	Berlin, NH	4/18/84	4/5/84	TA–W–15,305	Shoes and sandals—ladies'.
Kaiser Steel Corp., Raton Properties (UMWA)	Raton, NM	4/11/84	4/4/84	TA–W–15,306	Coal, mining.
Kerns Foods, Inc., Ohio Div. (wkrs)	Leipsic, Ohio	4/11/84	3/30/84	TA–W–15,307	Tomato paste, juice, cocktail sauses, etc.
Modern Juniors, Div. of Jonathan Logan (ILGWU)	No. Bergen, NJ	4/11/84	4/6/84	TA–W–15,308	Sportswear, dresses—juniors.
National Forge Co. (Independent Union of National Forge Employees).	Irvine, Warren Co., PA	4/17/84	4/9/84	TA–W–15,309	Finished machined diesel crankshafts, and finished machine pipe molds.
Papst Mechatronic Corp. (wkrs)	Middletown, RI	4/11/84	4/9/84	TA–W–15,310	DC brushless motor spindles and floppy disc drives.
Salz Leathers, Inc. United Food & Commercial Wkrs)	Santa Cruz, CA	4/17/84	4/11/84	TA–W–15,311	Leather tanning.
U.S. Shoe Corp. (workers)	West Liberty, KY	4/12/84	4/7/84	TA–W–15,312	Boots, dress, shoes and sandals—ladies.

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Portec, Inc., et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 16, 1984–April 20, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–15,040; Portec, Inc., Forgings Div., Canton, OH

TA–W–15,026; Diamond Chain Co., Indianapolis, IN

TA–W–15,039; Orient International Corp., Monroe Furniture Div., Tampa, FL

TA–W–15,029; Kanawha Manufacturing Co., Foundry Department & Yard Department, Charleston, WV

TA–W–14,804; Jade Handbag, Inc., New York, NY

TA–W–14,937; Ravenware Co., Brooklyn, NY

TA–W–14,972; Distribution Center, Bobbie Brooks Div., Bobbie Brooks, Inc., Cleveland, OH

TA–W–15,063; Western Electric Co., Inc., Indianapolis, IN

A certification was issued covering all workers separated on or after September 29, 1982.

TA–W–15,153; Coperweld Corp., Alumoweld Products Div., Glassport, PA

A certification was issued covering all workers separated on or after December 20, 1982.

TA–W–14,962; General Instrument Corp., RF Systems Div., Sherburne, NY

A certification was issued covering all workers separated on or after August 24, 1982 and before March 31, 1984.

TA–W–14,985; Royal China Co., Sebring, OH

A certification was issued covering all workers separated on or after August 25, 1982.

TA–W–14,992; Harris Graphics Corp., Bindery Systems Div., Elyria, OH

A certification was issued covering all workers separated on or after January 1, 1984.

TA–W–14,941; W. R. Case & Sons Cutlery Co. Bradford, PA

A certification was issued covering all workers separated on or after December 1, 1982.

TA–W–15,073; Thompson Steel Co., Inc., Worcester, MA

A certification was issued covering all workers separated on or after October 17, 1982 and before December 31, 1983.

TA–W–14,926; C.P. & M Corp., Akron, OH

A certification was issued covering all workers separated on or after November 1, 1982.

TA–W–15,075; DaMille Handbag Co., Middlesex, NJ

A certification was issued covering all workers separated on or after September 15, 1982 and before September 20, 1983.

TA–W–15,066; Cordis Dow Corp., Hialeah, FL

A certification was issued covering all workers engaged in employment related to the production of plastic blood lines separated on or after October 4, 1982, and before March 1, 1983.

TA–W–15,068; Farmland Industries, Inc., Ft. Dodge, IA

A certification was issued covering all workers separated on or after June 1, 1983 and before October 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period April 16, 1984–April 20, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 24, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–11738 Filed 4–30–84; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Advisory Committee on Sheltered Workshops; Meeting

A meeting of the Advisory Committee on Sheltered Workshops will be held in the Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. on May 17, 1984, from 9:00 a.m. to 5:30 p.m. and on May 18, from 9:00 a.m. until 3:00 p.m. The Committee will meet in Rooms N–5437 A, B, and C. Seven Subcommittees of the Committee will meet on Wednesday, May 16 at various times beginning at 9:00 a.m.

The mission of the Advisory Committee is to provide guidance to the Department regarding the administration and enforcement of the Fair Labor Standards Act and other Federal minimum wage laws as they relate to the employment of handicapped individuals with impaired productivity at special lower minimum wages in sheltered workshops, hospitals, or institutions.

The following subcommittees are scheduled to meet on May 16:

9:00 a.m. Piece Rate (N5437A)
9:00 a.m. Application Forms (N5437B)
9:00 a.m. Patient Worker Regulations (N5437C)
1:00 p.m. Special Enforcement Problems (N3437C)
2:00 p.m. Education and Training (N3437C)
3:00 p.m. Learning Disabilities (N5437A)
3:00 p.m. Compliance Activities (N5437C)

Among the agenda items to be considered by the Advisory Committee are: the review of the various subcommittee reports and recommendations; a review of the Department's position on the applicability of the minimum wage and overtime provisions of the Fair Labor Standards Act to sheltered workshops operated by State or local governments; the final report on the Washington State pilot project which has provided for the evaluation of handicapped individuals in competitive industry; the problems of determining prevailing wages for the purpose of finding a handicapped

worker's commensurate wage; a review of Regulations 29 CFR Part 525 (handicapped workers in sheltered workshops); and, a review of how to determine compensable time in a sheltered workshop setting. Other items may also be included on the agenda or introduced during the meeting.

The public is invited to attend all meetings, including those of the subcommittee. Written data, views, or arguments pertaining to the business before the Committee are invited. Such comments should be forwarded to the ommittee Secretariat prior to the meeting.

All inquiries concerning this meeting should be directed to: Mr. Arthur H. Korn, Secretariat for the Advisory Committee on Sheltered Workshops, Room C4316, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone number (202) 523–8727. This is not a toll free telephone number.

Signed in Washington, D.C. this 24th date of April 1984.

William M. Otter,

Administrator.

[FR Doc. 84–11737 Filed 4–30–84; 8:45 am]

BILLING CODE 4510–27–M

Pension and Welfare Benefit Programs

[Application No. D–3918]

Withdrawal of Proposed Exemption; Gerber & Linton Self-Employed Retirement Plan—H.R. 10 Plan (the Plan) Located in Reading, Pennsylvania

In the Federal Register of March 11, 1983, (48 FR 10500), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the sanctions resulting from the application of the prohibited transaction restrictions of the Internal Revenue Code of 1954. The notice of pendency concerned an application filed on behalf of the Plan.

In a letter dated April 11, 1984, the applicant's representative notified the Department that an exemption for the transaction described in the above cited notice was no longer sought. Accordingly, the representative requested that the application for exemption be withdrawn from consideration by the Department.

The notice of pendency is hereby withdrawn.

Signed at Washington, D.C., this 26th day of April, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 84–11702 Filed 4–30–84; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 84–35; Exemption Application No. D–3910, et al.]

Grant of Individual Exemptions; The Great Western Savings and Subsidiaries Employees' Deferred Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Great Western Savings and Subsidiaries Employees' Deferred Profit Sharing Plan (the Plan) Located in Seattle, Washington

[Prohibited Transaction Exemption 84–35; Exemption Application No. D–3910]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The purchase by the Plan of a loan participation (the Participation Interest) in a note orignated and held by Great Western Union Federal Savings and Loan Association (the Employer), the sponsor of the Plan, provided that the terms and conditions of such purchase are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party; and (2) the possible buyback of the Participation Interest by the Employer from the Plan provided that the price the Plan will receive for the Participation Interest is at least the fair market value of the Participation Interest at the time of such buyback.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 28, 1984 at 49 FR 7310.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Connelly Containers, Inc. Retirement Income Plan (the Plan) Located in Bala-Cynwyd, Pennsylvania

[Prohibited Transaction Exemption 84–36; Exemption Application No. D–4600]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the

sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $500,000 by the Plan to Connelly Containers, Inc. for a period of five years, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party on the date of the consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 28, 1984 at 49 FR 7313.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Drs. Maunder, Pincus, Schissel and Barricks Keogh Pension Plan (the Plan) Located in Minneapolis, Minnesota

[Prohibited Transaction Exemption 84-37; Exemption Application No. D-4672]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by Dr. Robert L. Barricks to his individually directed account in the Plan of a $23,530 interest (the Interest) in a Contract for Deed on property located at 2910 Cavell Avenue S., St. Louis Park, Minnesota, for $20,000 in cash, provided the purchase price does not exceed the fair market value of the Interest on the date of purchase.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 13, 1984 at 49 FR 9510.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Huntington Medical Laboratories, Inc. Defined Benefit Pension Plan and Huntington Mechanical Laboratories, Inc. Profit Sharing Plan (the Plans) Located in Mountain View, California

[Prohibited Transaction Exemption 84-38; Exemption Application Nos. D-4675 and D-4676]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, for a period of five years, to the proposed loans by the Plans of up to 25% of their assets to Huntington Mechanical Laboratories, Inc., provided that the terms of the transactions are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 28, 1984 at 49 FR 7315.

Temporary Nature of Exemption: The exemption is temporary and will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of this exemption, the Plans may hold loans originated during this five year period for an additional five years. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

For Further Information Contact: Alan H. Levita of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Kinzel, Acheson & Cowan, Inc. P. S. Profit Sharing Plan (the Plan) Located in Bellevue, Washington

[Prohibited Transaction Exemption 84-39; Exemption Application No. D-4820]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) throught (E) of the Code, shall not apply to the cash sale of a parcel of unimproved real property located in Mason Coluny, Washington by the Plan to Mr. William L. Kinzel, a party in interest with respect to the Plan, provided the price paid to the Plan is no less than the fair market value of the property on the date of sale and further provided that the net cash proceeds to the Plan are at least equal to the Plan's cash outlay for the property to the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 2, 1984 at 49 FR 7888.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Drs. Wolfe, Vore & Caron, P.C. Profit Sharing Plan and Trust (the Plan) Located in Milwaukee, Oregon

[Prohibited Transaction Exemption 84-40; Exemption Application No. D-5021]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the December 30, 1974 loan of $87,000 by the Plan to a partnership comprised of Gordon F. Wolfe, M.D., J. Victor Vore, M.D. and Gordon A. Caron, M.D., under the terms described in the notice of proposed exemption, provided such terms were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 2, 1984 at 49 FR 7889.

Effective Dates: This exemption is effective from January 1, 1975 through June 30, 1983.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/

or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 26th day of April, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-11701 Filed 4-30-84; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3604 et al.]

Proposed Exemptions; Third Revised Profit Sharing and Retirement Plan of International Rectifier Corporation et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Third Revised Profit Sharing and Retirement Plan of International Rectifier Corporation (the Plan) Located in El Segundo, California.

[Application No. D-3604]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed continuation past June 30, 1984, of the leases of five parcels of real property (the Properties) by the Plan to International Rectifier Corporation (the Employer), the sponsor of the Plan, provided that (1) the terms and conditions of the leases are at least as favorable to the Plan as the Plan could obtain in similar transactions with unrelated parties; and (2) after December 31, 1987 the aggregate value of the Properties leased to the Employer at anytime will not exceed 25 percent of the assets of the Plan.

Effective Date: The effective date of this exemption, if granted, would be July 1, 1984.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 955 participants and total assets of approximately $9,840,157 as of September 30, 1983. The Plan is managed and administered by a committee of employees of the Employer. Union Bank of Los Angeles, California (Union) is the trustee of the Plan. The Properties consist of five separate buildings all located in El Segundo, California and are used by the Employer in its manufacturing business. The Properties have been leased to the Employer under separate leases. Each Property acquired by the Plan was leased to the Employer prior to July 1, 1974. The applicant asserts that none of the leases constitute a prohibited transaction under section 406 of the Act and 4975 of the Code because each qualifies for the transitional relief provided by seciton 414(c)(2) and 2003(c)(2)(B) of the Act.[1] However, the applicant is requesting an exemption for the continuation of the leases past June 30, 1984, the expiration date of the transitional relief provided by section 414(c)(2) of the Act.

2. Each lease for the five parcels is for a three year term expiring at various times in 1983, 1984 and 1985. The applicant represents that each renewal prior to July 1, 1984 was and will be in accordance with the provisions of section 414(c)(2) of the Act. The applicant proposes that after these expiration dates each lease may be renewed for five additional periods of three years each. Each lease is a triple net lease pursuant to which the Employer is responsible for the costs of all insurance, taxes, utilities, maintenance and repairs. As of June 18, 1982, the five Properties had a collective fair market value of $3,391,000, as determined by R. A. Eigenbrodt, M.A.I., an independent appraiser from Los Angeles, California. The fair market values of the Properties range from

[1] The Department offers no opinion as to whether the leases qualify for the transitional relief provided by section 414(c)(2) and 2003(c)(2)(B) of the Act.

$235,000 to $949,000. The Properties represent approximately 35 percent of the assets of the Plan. Monthly rentals under the leases have always been paid.

3. As of July 1, 1984, Union will act as an independent fiduciary for the subject transactions. Union is independent of the Employer and presently manages many employee benefit plan accounts, the total market value of which is $237,362,000. As of July 1, 1984 and upon subsequent lease renewals the fair market rental values on the leases will be determined by Union and, if necessary, rentals will be adjusted accordingly. Union represents that the leases will at all times be at fair market rental value. Union has examined the terms of the leases and represents that the continuation of the leases past June 30, 1984 is in the best interests of the Plan. As of July 1, 1984, Union will also monitor the terms of the leases on the Plan's behalf and enforce the rights of the Plan under the leases throughout their durations. In addition, Union will review the terms of any future sale of the Property to determine whether the proposed sale is reasonable and appropriate. Union represents that no sale will be permitted below fair market value, that each Property has proven to be an excellent investment for the Plan and, because of their separate locations in one of the prime commercal districts of Los Angeles County, the Properties can be sold or leased independently should the need arise. Union further represents that the remainder of the Plan's portfolio is invested in highly liquid assets which would be more than adequate to cover the cash needs of the Plan. Also, Union represents that the Plan will sell two additional buildings which are leased to the Employer prior to June 30, 1984. Union represents that a sale of any of the remaining Properties prior to June 30, 1984 to further reduce the percentage of the assets of the Plan involved in leases with the Employer will depress the selling price of those Properties and the fair market value of any remaining Properties held by the Plan and as a result would cause a loss to the Plan. The applicant represents that as of December 31, 1987, the Properties will comprise no more than 25 percent of the assets of the Plan and no more than 25 percent of the assets of the Plan upon the renewal of any of the leases of the Properties occurring after December 31, 1987.

4. The applicant represents that the proposed tranactions satisfy the statutory criteria of section 408(a) of the Act because: (a) As of July 1, 1984, Union will act as independent fiduciary for the subject transactions; (b) Union represents that the continuation of the leases past June 30, 1984 is in the best interests of the Plan; (c) rentals under the leases will be determined and will be periodically adjusted by Union; (d) Union will monitor the terms of the leases and enforce the rights of the Plan under the leases and will review the terms of any sale of a Property to determine whether the sale is at least at fair market value; and (e) as of December 31, 1987 and upon any subsequent lease renewal the Properties will represent no more than 25 percent of the assets of the Plan.

For further Information Contact: Louis Campagna of the Department, telephone (202) 523-8973. (This is not a toll-free number.)

The Kimball International, Inc. Indirect Retirement Plan (the Indirect Plan) and the Kimball International, Inc. Direct Retirement Plan (the Direct Plan; Collectively, the Plans) Located in Jasper, Indiana

[Application Nos. D-3840 and D-3841]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply: (1) to the proposed continuation past June 30, 1984 of a lease (the Indirect Lease) by the Indirect Plan of certain improved real property to Kimball Interantional, Inc. (the Employer), the sponsor of the Plans; (2) effective January 1, 1975, to October 5, 1982, to the past lease (the Direct Lease) by the Direct Plan of certain improved real property (the Warehouse Property) to the Employer; and (3) effective October 6, 1982, to the lease (the New Direct Lease) of the Warehouse Property by the Direct Plan to the Employer.

Summary of Facts and Representations

1. The Indirect Plan is a defined contribution profit sharing pension plan with approximately 1,198 participants and with assets of $40,380,956 as of June 30, 1982. The Direct Plan is a defined contribution profit sharing pension plan with approximately 3,520 participants and with assets of $22,433,936 as of June 30, 1982. The Employer is engaged in the manufacture and marketing of pianos, organs, furniture, contract cabinets and processed wood products. The assets of the Plans are held and managed by the Spring Valley Bank and Trust Company (the Trustee) located in Jasper, Indiana. The Trustee is not related to the Employer.

2. On April 1, 1974, the Trustee, acting on behalf of the Indirect Plan, entered into the Indirect Lease with the Employer under which the Indirect Plan leased to the Employer three parcels of real property (the Properties) consisting of three production facilities used by the Employer: the Electronics Division Plant and the Stylemasters Production Plant, both of which are located in Jasper, Indiana, and the Piano Plant located in West Baden, Indiana. The Indirect Lease is a triple net lease which obligates the Employer to insure the Properties against loss by fire or other hazard, to provide public liability, bodily injury and property damage insurance on the Properties, and to pay all taxes and utility and maintenance costs of the Properties. The Indirect Lease provides for an initial term of ten years, renewable for an additional 10 year term. The amount of annual rent under the Indirect Lease was initially set at $450,000 and the Indirect Lease provided that the amount of rental would be subject to adjustment at five year intervals to reflect increases in the fair market rental value of the Properties as determined by independent professional appraisals of the Properties. Such an adjustment was made in 1979. In addition, periodic reappraisals of the Properties have been made as a result of additions to the Properties. The total rental received by the Indirect Plan under the Indirect Lease in 1982 was $591,370. An appraisal of the Properties was made on July 28, 1981 by Gene A. Theiman and Edwin H. Pieper (Theiman and Pieper), professional property appraisers located in Jasper, Indiana. Theiman and Pieper determined that as of July 28, 1981 the Electronics Plant, the Stylemasters Production Plant and the Piano Plant had fair market values of $2,400,000, $770,500 and $2,700,000, respectively. The Employer represents that as of May 18, 1983 the Properties constituted approximately 12.9% of the total assets of the Indirect Plan. On August 14, 1982 the Trustee and the Employer executed amendments to the Indirect Lease which updated the legal description of the Properties and provided for three additional five-year renewal terms beyond the original ten-year renewal term, subject to mutual agreement by the Trustee and the Employer. These amendments also provided that rent under the Indirect Lease will be subject to adjustment at

three-year intervals by two independent professional appraisers, one selected by the Trustee and one selected by the Employer, who jointly will select a third appraiser, in the event of disagreement, to resolve any differences between the appraisals.

3. On October 6, 1982 Trustee and Arthur L. Dillard, Esq. (Dillard), who is unrelated to the parties to the Indirect Lease, executed an agreement (the Appointment) under which the Trustee appointed Dillard as an independent fiduciary to represent the Indirect Plan with respect to the Indirect Lease. Pursuant to the Appointment, Dillard will represent the interests of the Indirect Plan under the Indirect Lease by monitoring performance of the terms and conditions of the lease, receiving rental payments from the Employer and acting in the place of the Trustee in the triannual rental adjustments required by the lease. According to the terms of the Appointment, no transaction for which this exemption is requested may be entered into without the prior approval of Dillard. Dillard is an attorney who has practiced law in Indiana over ten years with particular experience in real estate matters and with experience under the Act. The Employer asserts that the Indirect Lease is a lease involving a party in interest pursuant to a binding contract in effect on July 1, 1974, as defined under sections 414(c)(2) and 2003(c)(2)(B) of the Act, and therefore is statutorily exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and section 4975 of the Code by virtue of sections 414(c)(2) and 2003(c)(2)(B) of the Act.[1] The Employer is requesting an exemption to permit the continuation of the Indirect Lease, as amended, past June 30, 1984 according to its terms.

4. Dillard represents that he has reviewed and evaluated the past performance of the Employer as lessee under the Indirect Lease in consideration of the suitability of the Employer as a tenant under the proposed continuation of the Indirect Lease. Dillard has determined that such past performance of the Employer has been excellent. Dillard notes that the Employer has met and exceeded its contractual obligations under the leases, making all rental payments when due and making improvements to the Properties beyond its fulfilled duty of maintenance and repair. Dillard also notes that the Employer has continuously satisfied its obligations to insure the Properties against all risks and to maintain all necessary records relating to the lease. In Dillard's opinion, the Employer has been and will be a very reliable and favorable tenant under the Indirect Lease. Dillard represents that he has reviewed, evaluated and approved the Indirect Lease and its proposed continuation, and has determined that it has been and will be an appropriate investment for the Indirect Plan and that it has been and will be in the best interests and protective of the participants and beneficiaries of the Indirect Plan.

5. On September 15, 1974, the Trustee, acting on behalf of the Direct Plan, entered into a lease (the Direct Lease) with the Employer under which the Direct Plan leased to the Employer a parcel of real property (the Warehouse Property) on which the Direct Plan constructed a general purpose warehouse in 1974 and 1975. The Direct Lease is a triple net lease with terms substantially identical to the original terms of the Indirect Lease, including the provisions for insurance and rental adjustments. The Direct Lease provided for an initial term of 10 years, renewable for an additional ten-year term. The amount of annual rental under the Direct Lease was initially set at $75,000. The terms of the Direct Lease required a review of the annual rental amount in 1979 to determine whether the rental should be increased because of any increase in the fair market rental value of the Warehouse Property since the execution of the Direct Lease in 1974. The Employer represents that the Trustee determined that the fair market rental value of the Property was below the amount of annual rental required under the Direct Lease and that as a result the annual rental under the Direct Lease was not adjusted in 1979. An appraisal of the Warehouse Property was made on July 28, 1981 by Theiman and Pieper who determined that the Warehouse Property had a fair market value of $724,000. The Employer represents that as of May 18, 1993 the Warehouse Property constitutes less than 3% of the total assets of the Direct Plan.

6. On August 14, 1982 the Trustee and the Employer executed amendments to the Direct Lease which updated the legal description of the Warehouse Property and provided for three additional five-year terms beyond the original ten-year renewal term, subject to mutual agreement by the Trustee and the Employer. These amendments also provided that the amount of rental under the Direct Lease would be subject to adjustment at three-year intervals pursuant to the same procedure provided for rental adjustment in the amendments to the Indirect Lease.

On October 6, 1982 the Trustee and Dillard executed the Appointment under which the Trustee appointed Dillard as an independent fiduciary to represent the interests of the Direct Plan under the Direct Lease. The Employer maintains that by the amendments to the Direct Lease, including and concluding with the October 6, 1982 appointment of Dillard to act as an independent fiduciary, the Direct Lease was effectively terminated and the resulting lease arrangement constitutes a new lease (the New Direct Lease). The Appointment requires Dillard to monitor performance of the terms and conditions of the New Direct Lease, receive rental payments from the Employer and act in the place of the Trustee in the triannual rental adjustment required by the New Direct Lease. According to the terms of the Appointment, no transaction for which this exemption is requested may be entered into without the prior approval of Dillard. The Employer is requesting an exemption to permit, effective January 1, 1975 through October 5, 1982, the Direct Lease and to permit, effective October 6, 1982, the New Direct Lease and its proposed continuation according to its terms.

7. Dillard represents that he has reviewed and evaluated the past performance of the Employer as lessee under the Direct Lease and the New Direct Lease in consideration of the suitability of the Employer as a tenant under the proposed continuation of the New Direct Lease. Dillard has determined that such past performance of the Employer has been excellent. Dillard notes that the Employer has met and exceeded its contractual obligations under the leases, making all rental payments when due and making improvements to the Warehouse Property beyond its fulfilled duty of maintenance and repair. Dillard also notes that the Employer has continuously satisfied its obligations to insure the Warehouse Property against all risks and to maintain all necessary records relating to the leases. In Dillard's opinion, the Employer has been and will be a very reliable and favorable tenant under the Direct Lease and the New Direct Lease. Dillard represents that he has reviewed, evaluated and approved the New Direct Lease and its proposed continuation, and has determined that it has been and

[1] The Department expresses no opinion as to whether the Indirect Lease constituted a lease pursuant to a binding contract in effect on July 1, 1974 as defined under sections 414(c)(2) and 2003(c)(2)(B) of the Act or whether the Indirect Lease is statutorily exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and section 4975 of the Code by virtue of sections 414(c)(2) and 2003(c)(2)(B) of the Act.

will be in the best interests and protective of the participants and beneficiaries of the Direct Plan.

8. In summary, the applicant represents that the statutory criteria of section 408(a) of the Act will be satisfied with respect to the proposed continuation of the Indirect Lease past June 30, 1984 because: (1) the terms of the Indirect Lease provide for rental at the fair market rental values of the Properties and require increases in rentals commensurate with increases in the fair market rental values of the Properties; (2) the Indirect Lease has been amended to require triannual rental review; (3) the interests of the Indirect Plan under the Indirect Lease will be represented by an independent fiduciary who, for the duration of the Indirect Lease, will monitor performance of the terms and conditions of the Indirect Lease, receive rental payments from the Employer, act in the place of the Trustee in the triannual rental review, and pursue appropriate remedies on behalf of the Indirect Plan in the event of the Employer's default or any defect in the Employer's performance under the Indirect Lease; and (4) the independent fiduciary has reviewed the proposed continuation of the Indirect Lease past June 30, 1984 and has determined that it will be an appropriate investment for the Indirect Plan and will be in the best interests and protective of the participants and beneficiaries of the Indirect Plan.

The applicant represents that the statutory criteria of section 408(a) of the Act have been and will be satisfied with respect to the Direct Lease and the New Direct Lease because: (1) the initial annual rental under the Direct Lease constituted the fair market rental value of the Warehouse Property; (2) the Direct Lease has provided for periodic increases in rental commensurate with the fair market rental value of the Warehouse Property; (3) from the date of execution of the Direct Lease, through October 5, 1982, the interests of the Direct Plan under the Direct Lease were represented for all purposes by an independent fiduciary, the Trustee; (4) since October 6, 1982, the interests of the Direct Plan under the New Direct Lease have been represented for all purposes by an independent ficuciary, Dillard; (5) the Employer's past performance under the Direct Lease and the New Direct Lease have been reviewed and evaluated by an independent fiduciary, Dillard, who has found that such past performance has been excellent and that the Employer met and exceeded its contractual obligations under such leases; (6) the interests of the Direct Plan under the New Direct Lease will be represented by Dillard, an independent fiduciary who, for the duration of the New Direct Lease, will monitor performance of the terms and conditions of the New Direct Lease, receive rental payments from the Employer, act in the place of the Trustee in the triannual rental review, and pursue appropriate remedies on behalf of the Direct Plan in the event of the Employer's default or any defect in the Employer's performance under the New Direct Lease; (7) the New Direct Lease provides for triannual rental review; and (8) the independent fiduciary has reviewed the Direct Lease and the New Direct Lease and has determined that they have been and will be appropriate investments for the Direct Plan and in the best interests and protective of the participants and beneficiaries of the Direct Plan.

Finally, the applicant represents that the Direct Lease was executed prior to the effective date of the Act without knowledge that the Direct Lease would become prohibited on January 1, 1975. As soon as the applicant realized that the Direct Lease had become prohibited, the applicant effectively terminated the Direct Lease by the amendment of its terms and the appointment of an independent fiduciary to act in the place of the Trustee, and applied for an exemption of the resulting New Direct Lease.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

The Western Conference of Teamsters Pension Trust Fund (the Plan) Located in Seattle, Washington

[Application No. D-3960]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply, effective August 1, 1982, to the acquisition or holding on behalf of the Plan of a security issued by an employer of employees covered by the Plan, an affiliate of such an employer as defined in section 407(d)(7) of the Act, or a person who is a party in interest with respect to the Plan by virtue of a relationship described in Act section (3) (14), (E), (G), (H) or (I) to such an employer, provided that the fiduciary responsible for the Plan's engaging in the transaction is the Equitable Life Assurance Society of the United States (Equitable), the Aetna Life Insurance Company (Aetna) or the Prudential Insurance Company of America (Prudential), and further provided that the Plan pays no greater than the fair market value of the security at the time of acquisition.

Effective Date: If the proposed exemption is granted, it will be effective August 1, 1982.

Summary of Facts and Representations

1. The Plan was established in 1955 and currently is the largest private collectively bargained multiemployer pension plan in the United States. The Plan has approximately 556,000 participants, including 110,000 persons receiving benefits. There are approximately 15,000 contributing employers in the Plan. The largest single employer contributed approximately 5.02 percent of employer contributions received by the Plan during the past year. No other single employer contributes as much as 5 percent of total Plan contributions. The Plan has total assets of approximately $4 billion.

2. Until July 1982, the assets of the Plan were managed exclusively by Prudential pursuant to the terms of an Immediate Participation Guarantee contract issued by Prudential to the trustees of the Plan. Assets held by Prudential under the contract were allocated to Prudential's general account (approximately $2.3 billion) and to various pooled separate accounts.

3. Between July and October, 1982, the trustees of the Plan modified the above described arrangements by instituting two new investment programs. In July 1982, the Plan's trustees entered into agreements with Equitable, Aetna and Prudential (together, the Companies) for the creation, by each of the Companies, of a single customer separate account to be invested primarily in common stocks. The accounts were to funded over a one-year period beginning August 1, 1982, in the amount of $120 million each. As of June 30, 1983, the value of the Prudential account was approximately $137 million, the Equitable account $142 million and the Aetna account $141 million. In July, 1983, the Plan's trustees authorized the allocation of an additional $30 million to each of the single customer common stock. In October 1982, the trustees authorized Prudential to establish another single customer account in the nature of a dedicated bond fund to be known as the 1982 Annuity Account.

This account was funded in the amount of $500 million. The objective of Prudential in managing the 1982 Annuity Account is to match the maturities and yields of the Account's portfolio of debt investments with the projected cash flow requirements necessary to meet benefit payments to the group of retirees for whom the Account is dedicated. As of June 30, 1983, the value of the assets in the 1982 Annuity Account was approximately $521 million.

4. With respect to each of these new single customer accounts, the Companies will have full discretion within the investment policies established for the accounts in selecting investments. The Companies will not be subject to any policies or direction from the Plan's trustees with respect to investments in securities issued by contributing employers, their affiliates or other parties in interest who are related to contributing employers. In investing the Plan's assets, the Companies will consider an enormous number of possible investments and will engage in numerous investment transactions each year.

5. Prudential and Equitable are mutual life insurance companies organized under the laws of the States of New Jersey and New York, respectively. Aetna is a stock life insurance company organized under the laws of the State of Connecticut. All three Companies are among the largest life insurance companies in the United States: currently, Prudential ranks first in size, Equitable is third, and Aetna is fourth. The total amount of assets of each of the Companies (including general account, separate account and investment advisory account assets) as of December 31, 1982 was as follows: (1) Prudential—$66.7 billion; (2) Equitable—$48.8 billion; and (3) Aetna—$28.5 billion. Total Plan assets as of June 30, 1983 had a value of approximately $4.6 billion. As a percentage of total Company assets, the Plan assets allocated to each of the Companies (taking into account the additional $30 million authorized by the Plan's trustees in July, 1983) is approximately as follows: (1) Prudential—6.4%; (2) Equitable—0.4%; and (3) Aetna—0.6%.

6. None of the trustees of the Plan is an officer, director or employee of any of the Companies. Further, none of the officers, directors or employees of the Companies has any discretionary authority or responsibility with respect to the selection, retention or removal of investment managers for the Plan. In addition, none of the Companies is a contributing employer to the Plan or an affiliate (as defined in section 407(d)(7) of the Act) of any contributing employer.

7. Because the Plan has a large number of contributing employers, their affiliates and other employer-related parties in interest, it is likely that some of the securities which the Companies will acquire or hold may be issued by such persons. Where the Companies acquire or hold securities issued by employers or affiliates of employers which are not qualifying employer securities, or acquire or hold qualifying employer securities of a value in excess of 10% of the value of the Plan's assets, or acquire or hold securities issued by persons who are parties in interest with respect to the Plan by virtue of a relationship to a contributing employer but are not affiliates, sections 406(a) and 407(a) of the Act may be violated in the absence of the requested exemption. Such violations may be deemed to have occurred even where the Companies are unable, as a practical matter, to determine whether the securities are qualifying or whether the issuers are employers, affiliates or have party in interest relationships through an employer and where the transaction is advantageous to the Plan.

8. The applicant represents that the Companies will have extreme difficulty ascertaining whether or not the issuer of a security is an employer or an affiliate of an employer because: (1) the Plan has more then 15,000 contributing employers; (2) there are likely to be as many as 100,000 corporate affiliates of these contributing employers; (3) the list of the employers and their affiliates is constantly changing; and (4) there are untold thousands of issuers of publicly traded and privately issued bonds and other debt securities. The applicant represents that it will be similarly difficult or impossible to determine whether debt securities acquired or held for the Plan in, for example, the 1982 Annuity Account will satisfy the various conditions required for "marketable obligations" so as to constitute qualifying employer securities.

9. The applicant represents that the difficulty of complying with the prohibited transaction restrictions in the context of securities issued by employers, affiliates and related parties in interest leaves the Plan's asset managers in a constant condition of uncertainty with respect to whether they may be engaging in inadvertent violations of the Act. Finally, the applicant represents that the application of the restrictions and the Plan's efforts to comply with them would result in an unnecessary narrowing of potential investments for the Plan and a loss of attractive investment opportunities.

10. In summary, the applicant represents that the subject transactions meet the criteria contained in section 408(a) of the Act because: (1) the Plan's trustees have determined that it is prudent and in the interests of Plan participants and beneficiaries to have a portion of the Plan's assets invested in securities by means of single customer accounts managed by several investment managers; (2) transactions covered by the proposed exemption may be engaged in only by professional, independent investment managers, namely the Companies, acting on behalf of the Plan; (3) the Plan's investment managers have full discretion in selecting investments within the investment policies for each account; (4) no policies, guidelines or directives are given to the investment managers regarding investments in securities issued by employers, their affiliates or related parties in interest; (5) securities purchased pursuant to the proposed exemption may be acquired for no more than adequate consideration; and (6) the percentage of total assets managed by the Companies represented by Plan assets is very small for each of the three companies.

For Further Information Contract: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Drs. Jensen, Shroyer and Anderson, P.C. Employees Pension Trust (the Plan) Located in Big Rapids, Michigan

[Application No. D-4249]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The sale of a parcel of real estate (the Property) from the Plan to Drs. L. J. Jensen, R. C. Shroyer and E. W. Anderson (the Trustees) at the higher of (a) its appraised fair market value or (b) the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property through the date of sale. In addition, the Trustees will assume the unpaid balance due on the land contract (the Contract) which

encumbers the Property. (2) The assignment of the Contract by the Plan to the Trustees.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with 7 participants. The Plan had total assets of $130,412 as of September 30, 1982. Doctors Jensen, Shroyer and Anderson serve as trustees of the Plan and have complete discretion with respect to the investment of Plan assets. The Trustees also serve as officers and directors of Drs. Jensen, Shroyer and Anderson, P.C., a professional corporation engaged in the practice of dentistry.

2. On September 21, 1979 the Plan purchased for investment purposes undeveloped land from Robert Horan, Jr., an unrelated party with respect to the Plan for a total price of $93,290, which included a cash downpayment of $15,000 and a $78,290 land contract for 105 months at 9½% interest, payable quarterly. Since the purchase, the Property has produced no income for the Plan. The applicant represents that as a result of the downturn in the Michigan economy: (a) land values in Big Rapids are declining; (b) there is currently a glut on the housing market in Big Rapids which is likely to continue due to the decline in the industrial and educational base of the town; and (c) it would be difficult for the Plan to realize the appraised fair market value of the Property in cash or other form from a sale to an unrelated party. The applicant further represents that continued holding of the Property constitutes a drain on Plan assets and that the sale of the Property will allow the Plan to invest in higher yielding liquid assets. Therefore, the applicant represents that the sale of the Property is in the best interests of the Plan, its participants and beneficiaries.

3. In August 1982, Dr. Jensen talked with Mr. Jim Wallace, a real estate agent unrelated with respect to the Plan, who agreed to list the Property if requested, but suggested that there was no point in listing the Property as there was no market for the Property. In April, 1983, Mr. Ken Ross, an unrelated party with respect to the Plan, made a firm oral offer of $75,000 to Dr. Jensen, which was rejected by the Plan.

4. As of May, 1983, the total real estate taxes paid on the Property since its purchase by the Plan amounts to $4,809.55. In addition, the Plan has paid $25,234.68 in interest payments and $34,820.22 in principal payments on the Contract, leaving $43,469.78 in unpaid principal due on the Contract. Therefore, as of May, 1983, the Plan's total cash expenditures in connection with the acquisition and holding of the Property amounted to $79,864.45. Thus, a purchase price of $123,334.23 ($79,864.45 and $43,469.78) is necessary to insure that the Plan suffers no loss as a result of the acquisition and holding of the Property.

5. The applicant seeks an exemption to allow the Plan to: (1) Sell the Property to the Trustees at the higher of (a) its appraised fair market value or (b) the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property through the date of sale. In addition, the Trustees will assume the unpaid balance due on the Contract. (2) Assign the Contract to the Trustees. Mr. James Kuenzel, a member of the American Association of Certified Appraisers, appraised the Property and determined that, as of February 1, 1983, it has a fair market value of $92,000. Mr. Kuenzel represents that the highest and best use of the Property is residential use. The purchase price will be no less than $123,334.23. Of this amount, the Plan will receive no less than $79,864.45 in cash, while each of the three purchasers would acquire a one-third interest in the Property and assume one-third of the balance due under the Contract, which as of May, 1983 was $43,469.78. The Plan will incur no commissions or expenses of any kind with respect to the proposed sale.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (a) the Plan will be able to dispose of a non-income producing asset which has been decreasing in value; (b) the Property will be sold at a price which ensures that it not sustain a loss on its investment and expenditures in connection with the holding of the Property; (c) the sale will be a one-time transaction and the Plan will not incur any sales commissions or other expenses with respect to the sale; and (d) the Trustees of the Plan represent that the proposed transaction will be in the best interests of the Plan.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Stair Cargo Services, Inc. Employees Profit-Sharing Plan (the Plan) Located in Miami, Florida

[Application No. D-4419]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The sale of a parcel of real estate (the Property) from the Plan to Stair Realty (Stair), a party in interest with respect to the Plan, at the higher of (a) its appraised fair market value or (b) the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property through the date of sale. In addition, Stair will assume the unpaid balance due on the land contract (the Contract) which encumbers the Property. (2) The possible assignment of the Contract by the Plan to Stair.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 86 participants. The Plan had total assets of $926,605.62 as of December 31, 1982. Mr. Cesareo Llano, Mr. Carlos Murciano and Mr. Francisco Bernal are the trustees (the Trustees) of the Plan and principal shareholders of Stair Cargo Services, Inc. (the Employer). The Trustees have complete discretion with respect to investment of Plan assets.

2. The Plan presently holds the Property, an unimproved parcel of real estate located in Romulus, Michigan, near the Detroit Metropolitan Airport. The Plan acquired the Property, on September 29, 1981, from Central Distributors of Beer, Inc. (the Seller), a party unrelated with respect to the Plan.[1] The Plan purchased the Property for $87,000. The Plan made a $30,000 downpayment and executed a $57,000 3-year land Contract at 11% interest with the Seller.

3. Since the purchase, the Property has produced no income for the Plan. The applicant represents that owing to the general decline in Michigan real property values, the Property may be expected to decline in value during the foreseeable future. The applicant further represents that the sale will allow the Plan to secure a positive return upon its reinvestment of the proceeds. Therefore, the applicant represents that the sale of the Property will be in the best interests of the Plan, its participants and beneficiaries.

[1] In this proposed exemption, the Department is proposing an exemption solely for the sale of the Property by the Plan to Stair. The Department is not proposing an exemption for the acquisition of the Property to the extent such acquisition constituted a prohibited transaction. To the extent that the acquisition constituted a prohibited transaction, the applicant represents that the Employer will pay any applicable excise taxes.

4. In addition to the $30,000 cash downpayment, as of July 1, 1983, the Plan had paid $1,996.36 in real estate taxes, $8,600.37 in interest costs and $532 in closing costs. In addition, the Plan has made $29,831.23 in principal payments on the Contract, leaving $27,168.77 in unpaid principal due on the Contract. Therefore, the Plan has incurred $70,959.96 in expenditures in connection with the acquisition and holding of the Property. Thus a purchase price of $98,128.73 ($70,959.96 and $27,168.77) is necessary to insure that the Plan suffers no loss as a result of the acquisition or holding of the Property. The Property has produced no income for the Plan.

5. The applicant seeks an exemption to permit the Plan to: (1) Sell the Property to Stair at the higher of (a) its appraised fair market value or (b) the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property through the date of sale. In addition, Stair will assume the unpaid balance due on the Contract. (2) Assign the Contract to Stair. On April 27, 1982 and June 23, 1983, Mr. Donald H. Treadwell, Jr., M.A.I. appraised the Property and determined that as of those dates, the Property had a fair market value of $87,000. On June 14, 1983, Mr. Treadwell indicated that the Property was not a special purchase property to Stair nor to the Employer and that no premium price was warranted. The purchase price will be no less than $98,128.73. Of this amount, the Plan will receive no less than $70,959.96 in cash while Stair will assume the balance due under the Contract, which is currently $27,168.77. The applicant represents that the Seller has agreed to release the Plan from liability under the Contract contingent upon receipt by the Seller of a fully executed copy of an assignment by which Stair assumes all liabilities of the Plan. The applicant further represents that the Plan will pay no fees nor commissions with respect to the proposed sale.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) the Plan will be able to dispose of a non-income producing asset; (b) the Property will be sold at a price which ensures that it not sustain a loss on its investment and expenditures in connection with the holding of the Property; (c) it will be a one-time transaction and the Plan will not incur any sales commissions or other expenses with respect to the sale; and (d) the Trustees have determined that the proposed transaction is in the best interests and protective of the Plan and its participants and beneficiaries.

For further information contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Carvel Retirement Trust Plan (the Plan) Located in Yonkers, New York

[Application No. D–4653[

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchases by the Plan of customer notes with remaining terms of 36 to 48 months (the Additional Notes) from the Carvel Corporation (Carvel), the sponsor of the Plan, provided the following conditions are met:

A. All conditions of Prohibited Transaction Exemption 79–9 (PTE 79–9, 44 FR 17819, March 23, 1979) shall be satisfied except for the condition relating to the remaining term of customer notes secured by tangible personal property other than heavy equipment or motor vehicles.

B. Prior to the purchase by the Plan of any Additional Notes, the Independent Fiduciaries (as identified below) of the Plan must review such proposed purchase and approve such purchase only after a specific determination that the purchase will be for the exclusive benefit of the Plan and in the best interests and protective of the participants and beneficiaries of the Plan.

C. Any Additional Notes purchased by the Plan must yield an annual return of no less than 10%.

D. The Plan shall not purchase any Additional Note if, after such purchase, more than 5% of the Plan's total assets would be invested in the customer notes of any one Carvel dealer.

E. At any time after the purchase by the Plan of an Additional Note, the Employer shall repurchase any Additional Note from the Plan at the request of both of the Independent Fiduciaries and shall bear all expenses related thereto.

F. This exemption, if granted, shall expire five years from the date it is granted.

Preamble

On March 23, 1979, the Department published a class exemption, PTE 79–9, which permits employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes in the ordinary course of business and the notes are collateralized by security agreements on the property purchased by the customers. Among other conditions, PTE 79–9 provides that with respect to such notes secured by tangible personal property other than heavy equipment or motor vehicles, the term of the notes shall not exceed 36 months. Pursuant to PTE 79–9, the Plan has been investing in the Plan sponsor's customer notes with terms of 36 months or less where the notes are secured by tangible personal property other than heavy equipment or motor vehicles. The trustees of the Plan now wish to purchase customer notes secured by tangible personal property other than heavy equipment or motor vehicles with remaining terms of 36 to 48 months (the Additional Notes), in order to increase the Plan's investment in customer notes. Because the terms of the Additional Notes would exceed 36 months, such transactions would not be covered by PTE 79–9. However, because the Plan's trustee have agreed to meet additional conditions in place of the 36-month limitation of PTE 79–9 and to meet all other conditions of PTE 79–9, the Department believes that relief comparable to that afforded by PTE 79–9 would be appropriate.

Summary of Facts and Representations

1. The Plan is a profit sharing pension plan with 257 participants and assets of approximately $6,489,139 as of September 30, 1983. The Plan's sponsor is Carvel, a Delaware Corporation engaged in the business of licensing and servicing retail ice cream stores under the Carvel trade name. Carvel had net assets of $38,775,676, as of June 30, 1983. Carvel represents that the Plan is an eligible individual account plan as defined in section 407(d)(3) of the Act. The Plan is administered by three trustees (the Trustees), one of whom is an officer and director of Carvel and two of whom (the Independent Fiduciaries) are not otherwise related to Carvel. The Independent Fiduciaries are William O. Burnett (Burnett) and Robert N. Ettlinger (Ettlinger). Burnett is a Certified Financial Analyst who represents that he has substantial fiduciary experience under the Act and that he is independent of and unrelated to Carvel and its principals except as

Trustee of the Plan. Ettlinger is a Certified Public Accountant who represents that he has substantial fiduciary experience under the Act and that he is independent of and unrelated to Carvel and its principals except as Trustee of the Plan.

2. Upon the licensing and opening of new Carvel stores, Carvel finances approximately two-thirds of each dealer's license and equipment costs and each dealer executes a two-party promissory note in that amount (the Notes) in favor of Carvel. The Notes are payable in monthly installments over seven years with an effective annual interest rate of approximately 15%. Each Note is secured by a security agreement and recorded lien on the dealer's store and equipment. Carvel represents that the Notes are customer notes within the definition of PTE 79–9.

3. Pursuant to PTE 79–9, since 1979 on behalf of the Plan the Trustees have been purchasing from Carvel on a monthly basis all of Carvel's customer notes with remaining terms of 36 months or less. As of September 30, 1983 the value of the Notes held by the Plan was $1,765,856, which represented approximately 28.5% of total Plan assets. In 1982, the annual yield on the Notes held by the Plan was 14.7% and the annual yield on total Plan assets was 14.2%.

4. As of March 31, 1983, approximately $1,500,000 of Additional Notes issued to Carvel with remaining terms of 36 to 48 months would have been available for purchase by the Plan but for the 36-month term limitation imposed by PTE 79–9. The Trustees now wish to purchase from Carvel such Additional Notes with remaining terms of 36 to 48 months and are requesting an exemption to allow such purchases on behalf of the Plan for a period of five years.

5. The Trustees represent that all purchases of the Additional Notes will continue to satisfy all conditions of PTE 79–9 except for the condition relating to the remaining term of the notes. The Trustees agree that the following conditions, as substitute for the 36-month term condition of PTE 79–9, shall apply to all purchases of the Additional Notes:

(A) Prior to each purchase of an Additional Note, such proposed purchase shall be reviewed and evaluated by the Independent Fiduciaries. The Plan may purchase an Additional Note only after approval by both of the Independent Fiduciaries, who must determine that the proposed purchase will be for the exclusive benefit of the Plan and in the best interests and protective of the participants and beneficiaries of the Plan.

(B) The Plan may purchase an Additional Note only if, after such purchase, no more than five percent of the Plan's assets would be invested in the customer notes of any one Carvel dealer.

(C) Additional Notes purchased by the Plan must yield an annual return of no less than 10 percent.

(D) Carvel shall repurchase any Additional Note from the Plan for its unpaid principal amount at any time upon the request of both of the Independent Fiduciaries and shall bear all expenses in connection with such repurchase.

6. The applicants agree that this exemption, if granted, shall expire five years from the date it is granted. The Trustees represent that as of September 30, 1983, aside from customer notes, the only assets of the Plan to which Carvel had any relationship are 29,000 shares of common stock of Carvel with a total value of $732,830.

7. In summary, the applicants represent that the criteria of section 408(a) of the Act will be satisfied in the proposed purchases, for a five-year period, of the Additional Notes because (1) the purchases will be on terms at least as favorable to the Plan as an arm's-length transaction with an unrelated party; (2) all conditions of PTE 79–9 relating to the purchase of customer notes, except for the limitation of 36 months on the term of customer notes secured by tangible personal property other than heavy equipment or motor vehicles, shall be satisfied in the purchases of Additional Notes; (3) a purchase shall occur only after both Independent Fiduciaries have determined that such purchase will be for the exclusive benefit of the Plan and in the best interests and protective of its participants and beneficiaries; and (4) the Trustees have agreed that the purchases of Additional Notes will satisfy additional conditions imposed by this proposed exemption as substitute for the condition in PTE 79–9 limiting the term of customer notes to 36 months.

For Further Information Contact: Ronald B. Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Equitable Life Leasing Corporation (the Company) Located in San Diego, California

[Application No. D–4700]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to (1) the extension of credit by a plan with respect to which the Company is a party in interest, arising from the acquisition or holding by the plan of notes (the Notes) as described in this notice of proposed exemption; and (2) the sale by the Company, directly or indirectly, of the Notes to a plan with respect to which the Company is a party in interest, provided that the terms of such extension of credit or sale are at least as favorable to the plan as those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Equitable Life Assurance Society of the United States (Equitable) is a mutual life insurance company organized under the laws of the State of New York. It is the third largest life insurance company in the United States, having total assets, as of December 31, 1982 of approximately $41.1 billion. Among the wide variety of insurance products and services it offers, Equitable provides funding, asset management and other services for thousands of employee benefit plans (the Plans) subject to Title I of the Act.

2. The Company is an indirect wholly-owned subsidiary of Equitable. All of the outstanding stock of the Company is owned by the Equitable Life Holding Corporation, which is a wholly-owned subsidiary of Equitable. All of the directors of the Company are employees of Equitable or its subsidiaries. The Company was incorporated in Delaware in 1962 and its principal executive offices are in San Diego, California. The Company, directly and through its wholly-owned subsidiary Equitable/Omnilease Corporation, is engaged in the business of providing equipment lease financing to a wide variety of commerical and industrial users of capital goods.

3. The Company is presently a party to approximately 34,000 leases and finance contracts. The Company offers lease and financing arrangements with original terms ranging from two to ten years. As of December 31, 1982, the Company had total assets of $466,314,421. Funds required to finance the Company's investments in leases and financing contracts have been generated from its asset portfolio, from

capital contributions and from the issuance of commercial paper, short-term bank borrowings and fixed-rate term debt. The Company anticipates that, in the future, funds will be obtained from these sources to a lesser extent and will be supplemented by public offerings of senior debt and preferred stock.

4. On June 1, 1983, the Company issued to the public 350,000 shares of cumulative preferred stock (the Stock). On July 22, 1983, the Company filed with the Securities and Exchange Commission (SEC) a registration statement (the Registration Statement) covering the Notes, which are to be issued by the Company at various times during the effective period of the Registration Statement. The Registration Statement was filed with the SEC under Temporary Rule 415 which authorizes the registration of securities for issuance on a delayed or continuous basis—a so-called "shelf registration". Consistent with the requirements of Temporary Rule 415 and the practices of the securities industry, the Registration Statement and the base prospectus (the Prospectus) contained in the Registration Statement generally describe the Notes to be issued.

5. The Notes will differ in amount, interest rate, maturity date and issue date, and may contain provisions for redemption, amortization and sinking fund payments. The amount, interest rate, maturity date and issue date of the Notes will be disclosed in Prospectus Supplements to be filed with the SEC and provided to purchasers as required under the securities laws. The Notes will bear interest from the dates issued at the annual rate stated on the face thereof. The interest will be paid by the Company semi-annually. The Notes will be direct, unsecured obligations of the Company, and will rank on a parity with all other unsecured and unsubordinated debt of the Company. The Notes will not be guaranteed by Equitable.

6. The Notes are to be issued under an indenture (the Indenture) dated July 1, 1983, between the Company and Morgan Guaranty Trust Company of New York as Indenture Trustee. The Indenture contains a detailed statement of the rights and obligations of the Company, the Indenture Trustee and the holders of the Notes. The Indenture Trustee is not affiliated with either Equitable or the Company, but does have normal banking relationships with both.

7. The Notes will be issued in registered form only, without coupons, will have maturities of from more than 9 months to 10 years from the date of issue, and will be issuable at 100% of the principal amount in any denomination of $25,000 and integral multiples of $1,000 in excess thereof. The exact terms of each issuance of Notes will be described in supplements to the Prospectus. The Notes to be issued under the Prospectus are limited to $200,000,000 aggregate principal amount. The Notes will not be listed on a securities exchange; however, it is expected that the Notes will be traded in a secondary market. The applicants represent that the terms of the Indenture and the form of the securities to be issued thereunder are customary and usual terms employed in connection with the issuance of similar notes.

8. Under the terms of the Registration Statement, the Notes will be offered by the Company through Morgan Stanley & Co. Incorporated (the Agent) as agent on a best efforts basis, and may also be sold to the Agent for resale to investors at varying prices related to prevailing market prices at the time of resale as determined by the Agent. The Company reserves the right to sell Notes directly on its own behalf. Except where Notes are purchased by the Agent and resold for the Agent's account, the offering price of all Notes in a group of Notes issued by the Company will be the same to all purchasers.

9. The applicants have requested an exemption to permit Plans to acquire and hold the Notes. Because Equitable is a service provider to thousands of Plans, the acquisition and holding of the Notes by such Plans could constitute prohibited transactions. The applicants represent that they believe the acquisition and holding of the Stock by the Plans are not prohibited transactions because the Stock does not constitute a debt security and the Stock was issued through a firm commitment underwriting.[1] The applicants represent that neither the Company nor Equitable will exercise any authority, discretion or control over the decision of any Plan to purchase Notes. Any such decisions will be made by the responsible fiduciaries of the Plan acting independently of the Company and Equitable. Plans maintained by the Company and by Equitable for their own employees will not purchase these Notes, nor will any separate accounts or investment advisory accounts managed by Equitable for other employee benefit plans.

10. In summary, the applicants represent that the proposed transactions meet the criteria of section 408(a) of the Act because: (1) the Plans will be acquiring the Notes in the open market or on the same terms as the Notes could be acquired on the open market; (2) any decision to enter into the proposed transactions will be made by fiduciaries to the Plans who are independent of the Company and Equitable; and (3) Plan fiduciaries making a decision to purchase Notes in an offering covered by the Registration Statement will have available current information relating to the Notes as required under the disclosure provisions of the federal securities laws.

Notice to Interested Persons

Because the applicants do not know and may be unable to determine which Plans may acquire these Notes, it has been determined that the only practical means of notification of interested persons is by publication in the **Federal Register**. Comments are due within thirty days of the date of publication of this notice.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone, (202) 523–8881. (This is not a toll-free number.)

J.C. Penney Co., Inc. (Penney) Located in New York, New York

[Application No. D–4740]

Proposed Exemption

The Department is considering granting an exemption under the authority of 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). If the exemption is granted the restrictions of section 406 (a) and (b) of the Act shall not apply, effective December 29, 1982 through December 31, 1984, to the reinsurance of risks and the receipt of premiums therefrom by J.C. Penney Life Insurance Company (Penney Life) from the life insurance contracts sold by the Great American Reserve Insurance Company (GARCO) to provide benefits to various employee benefit plans (the Plans) maintained by Penny Life and J.C. Penney Casualty Insurance Company (Penney Casualty), provided the following conditions are met:

(a) Penney Life—

(1) Is a party in interest with respect to the Plans by reason of section 3(14)(C) of the Act or by reason of a stock or partnership affiliation with Penney Casualty that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the Insurance

[1] In this proposed exemption, the Department expresses no opinion as to whether the acquisition and holding of the Stock by the Plans constitute prohibited transactions.

Department of its domiciliary state, Vermont, which has neither been revoked nor suspended; and

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Vermont) by the Vermont Commissioner of Insurance within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plans pay no more than adequate consideration for the insurance contracts;

(c) No commissions are paid with respect to the direct sale of the contract, or the reinsurance thereof; and

(d) For each taxable year of Penny Life, the gross premiums and annuity considerations received in that taxable year by Penney Life for life and health insurance or annuity contacts for all employee benefit plans (and their employers) with respect to which Penney Life is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by Penney Life. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance or annuity contracts to such plans (and their employers) by Penney Life. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by Penney Life.

(2) All premium and annuity considerations written by Penney Life for plans which it alone maintains are to be excluded from both the numerator and enominator of the fraction.

Effective Date: If the proposed exemption is granted, it will be effective from December 29, 1982 through December 31, 1984.

Preamble

On August 7, 1979, the Department published a class exemption [Prohibited Transaction Exemption 79–41 (PTE 79–41), 44 FR 46365] which permits insurance companies that have substantial stock or partnership affiliations with employers establishing or maintaining employee benefit plans to make direct sales of life insurance, health insurance or annuity contracts which fund such plans, if certain conditions are satisfied.

In PTE 79–41, the Department stated its view that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest with respect to the plan, the purchase of the insurance contract would be a prohibited transaction.

The Department further stated that as of the date of publication of PTE 79–41, it had received several applications for exemption under which a plan or its employer would contract with an unrelated company for insurance, and that unrelated company would, pursuant to an arrangement or understanding, reinsure part or all of the risk with (and cede part or all of the premiums to) an insurance company affiliated with the employer maintaining the plan. The Department felt that it would not be appropriated to cover the various types of reinsurance transactions for which it had received applications within the scope of the class exemption, but would instead consider such applications on the merits of each individual case.

Summary of Facts and Representations

1. Penney is a large publicly held corporation organized under the laws of the State of Delaware. The dominant portion of its business consists of providing merchandise and services to consumers through retail stores, including catalog operations.

2. The Plans which are the subject of this proposed exemption are welfare benefit plans. They are: (1) a group medical insurance plan for employees of Penney Life and Penney Casualty; (2) group term life insurance plans for employees of Penny Life and Penney Casualty including accidental death and dismemberment and business travel accident coverage; and (3) a group disability policy for employees of Penney Life and Penney Casualty. There are approximately 2,500 participants covered under the Plans.

3. Penney Life is a stock life insurance company which was incorporated in 1900 under the laws of the State of Vermont. Penney Life is wholly owned by Penney and Penney Casualty. Penney Life actively solicits life and accident and health insurance business in those jurisdictions where it is licensed. Penney Life is currently qualified to conduct an insurance business in 49 states, the District of Columbia, and the Commonwealth of Puerto Rico. At the end of 1982, it had captial paid up of $2,000,000 and surplus of $70,993,590. During 1982, Penney Life collected $86,881,927 in total gross premiums and annuity considerations.

4. Penney Casualty is a stock casualty insurance company which was incorporated in 1957 under the laws of the State of Ohio. Penney Casualty has been wholly owned by Penney since 1973. Penney Casualty is currently qualified to conduct an insurance business in 42 states and the District of Columbia, and it actively solicits automobile, fire and casualty insurance business in those jurisdications.

5. GARCO is a stock insurance company which was incorporated under the laws of the State of Texas and was acquired by Penney in 1970. Pursuant to a reorganization, GARCO became a wholly owned subsidiary of Penney Life in 1975. On December 29, 1982, GARCO was sold to an unrelated third party, Lumberman's Investment Corporation. GARCO actively solicits life and health insurance business in those jurisdictions where it is licensed. GARCO is currently qualified to conduct a life and health insurance business in 45 states and the District of Columbia and to conduct a life insurance business in 46 states and the District of Columbia. At the end of 1982, it had capital paid up of $2,087,130 and surplus of $18,197,818. During 1982, GARCO collected $73,416,454 in total gross premiums and annuity considerations. GARCO's executive offices are in Dallas, Texas.

6. Before the sale of GARCO to Lumberman's Investment Corporation on December 29, 1982, the Plans were entirely funded through the purchase of group insurance contracts at competitive rates from GARCO. The benefits that were being received by participants of the Plans were significantly greater than the premiums being received by GARCO. Therefore, upon the sale of GARCO, GARCO indicated that it would only continue to insure the Plans with the same benefit coverage if the premiums for the Plans were significantly increased. Penney Life agreed to reinsure 100 percent of the risks of the Plans, thereby bearing any losses from the insuring of the Plans. The applicant represents that from January 1, through September 30, 1983, the amount of premiums paid for these Plans was approximately $1,640,000, while the benefits received for this

period totaled approximately $1,706,000, and the cost for administering the business was approximately $140,000. Thus, Penney Life lost approximately $206,000 as a result of this reinsurance business. It is expected that the figure will be approximately $300,000 by the end of 1983. Because the losses to Penney Life will be so large for 1983, it is expected that the premiums for the Plans will have to be increased for 1984, but even with this increase, Penney Life still anticipates significant losses in 1984 for reinsuring the Plans.

7. Under the reinsurance contracts which Penney Life has entered into with GARCO, GARCO pays Penney Life approximately 90 percent of the premiums and payments received in exchange for which Penney Life reinsures GARCO for 100 percent of the risk. The difference between the percentage of the risk reinsured by Penney Life and the percentage of premiums it receives represents a service fee to GARCO for administering the policies. The applicant represents that this fee is less than GARCO's typical service fee. These reinsurance contracts in no way affect GARCO's liability for all of the benefits promised under its insurance contracts with the Plans. The premiums to be received by Penney Life from these reinsurance contracts during 1983 are estimated to be 2 percent of Penney Life estimated 1983 total gross premiums and annuity considerations (excluding any premiums and annuity considerations it may otherwise receive from any of its affiliated companies). The applicant represents that the subject reinsurance transaction will be terminated as of December 31, 1984.

8. The applicant represents that the subject reinsurance transactions will meet all of the conditions of PTE 79–41 covering direct insurance transactions:

(a) Penney Life is a party in interest as described in section 3(14)(G) of the Act with respect to the Plans because of its stock affiliation with the employer (Penney Casualty) maintaining the Plans.

(b) Penney Life is licensed to sell insurance in at least one of the United States.

(c) Penney Life was authorized to do business (as the Vermont Accident Insurance Company) in 1900. Such authorization is automatically renewed each year by the Vermont Department of Banking and Insurance and continues to be effective unless rescinded. Penney Life's certificate has never been rescinded.

(d) Penney Life underwent a financial examination by the Department of Banking and Insurance of the State of Vermont for the five years ending December 31, 1978. Since January 1983, the Vermont Commissioner of Banking and Insurance has been conducting a financial examination of Penney Life for the years 1979–1982.

(e) Penney Life has undergone in the past an annual examination by an independent certified public accountant in connection with the annual audit of Penney.

(f) The Plans pay no more than adequate consideration for the insurance contracts. GARCO's premium charge to the Plans is highly competitive. The reinsurance transactions are not a factor in the premium computation and thus do not in any way affect the cost to the Plans.

(g) No commissions will be paid in connection with either the insurance contracts with GARCO or the reinsurance contract between GARCO and Penney Life.

(h) The gross premiums to be received in 1983 by Penney Life for its reinsurance under the proposed contract is not expected to exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in 1983 by Penney Life. It is projected that such premiums will only amount to approximately 2 percent of Penney Life's 1983 gross premiums and annuity considerations. The applicant represents that for the future Penney Life will derive not more than 50 percent of its gross premiums (including reinsurance receipts) from transactions involving the subject reinsurance contract.

9. In summary, the applicant represents that the subject transactions meet the criteria of section 408(a) of the Act because: (1) the insurance could not be purchased directly from Penney Life more economically than it is purchased from GARCO; (2) participants and beneficiaries of the Plans are afforded insurance protection at competitive rates arrived at through arm's-length negotiations; (3) Penney Life is a sound insurance company which has been in business for many years, and which does a substantial amount of business outside its affiliated group of companies; and (4) each of the protections provided by PTE 79–41 to the Plans has been and will continue to be met under the subject reinsurance transactions.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Profit Sharing Plan and Trust of J. Gordon Gaines, Inc. (the Plan) Located in Akron, Ohio

[Application No. D–4788]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan to J. Gordon Gaines, Inc. (the Employer) of a $100,000 obligation (the Debenture) of Bayse & Associates (Bayse) for $100,000 in cash, provided that the amount paid by the Employer is no less than the fair market value of the Debenture as of the date of sale. In addition, the Employer shall pay the Plan all accrued interest due on the Debenture through the date of sale.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan with 65 participants as of December 31, 1982. As of December 31, 1982 the Plan has assets of $927,570. The trustees of the Plan (the Trustees) are John W. Spiegel, Karl K. Schmidt and Margaret A. Atwood. The Trustees are also members of the Plan's administrative committee which conducts the Plan's business. The Employer is an insurance Managing General Agent. The Employer places insurance with fire and casualty insurance companies for independent, nonrelated agents. The Employer does not solicit insurance directly from individuals or companies. Approximately 80% of the insurance placed by the Employer is for trucking companies. On July 30, 1983 the stock of the Employer was sold to Liberty Management Services, Inc. In connection with the sale, the Employer's board of directors elected to terminate the Plan, liquidate its assets and distribute the proceeds. A termination application was filed with the IRS on July 25, 1983, and approved on January 10, 1984.

2. Among the assets of the Plan to be liquidated is the Bayse Debenture. The Plan purchased the Debenture directly from Bayse, at par, on July 1, 1980. the applicant represents that the Plan bought the Debenture because of its 14% interest rate; the relatively short term to

the June 30, 1987, date of maturity; and because through the Employer's insurance business, the Trustees were familiar with the management and operation of Bayse.

3. Neither Bayse nor its subsidiary, Priority Freight Systems, Inc. (Priority) has been a direct client of the Employer or any of its subsidiaries. The Employer has, however, written physical damage insurance on trucks owned by independent operators and leased to Priority. Additionally, the Employer has also written several general liability policies through another independent agency which solicited business from Priority. The applicant represents that any indirect business between the Employer and Priority never exceeded on one-hundreth of one percent of the total business of the Employer in any year. In addition to the aforementioned transaction, on June 30, 1981, the Employer sold 100% of the stock in its Dixie Express, Inc. subsidiary to Bayse in exchange for 125 shares of Bayse, representing 12½% of Bayse's total outstanding shares.

4. The applicant seeks an exemption to permit the Plan to sell the Bayse Debenture to the Employer for $100,000 in cash, provided that this amount is no less than the fair market value of the Debenture as of the date of sale. In addition, the Employer shall pay the Plan all accrued interest due on the Debenture through the date of sale. In a letter dated October 19, 1983, David C. Vernon, Senior Vice President of Bank One, Akron, N.A. appraised the Debenture and determined that the fair market value of the Debenture as of that date was par value and thus its purchase price should be $100,000 plus accrued interest from the date of the last interest payment date. The applicant represents that it is highly unlikely that the Plan would realize the fair market value of the Debenture if it was sold to a third party. In a letter dated October 28, 1983, Mr. Vernon indicates that the Debenture is not marketable and would probably only be purchased by a sophisticated investor should one be found with sufficient expertise to put a value on the Debenture. The applicant further represents that a distribution of an undivided interest in the Debenture to Plan participants would preclude their ability to roll-over their distribution on a tax-free basis and could result in current taxation on the distribution. Thus the applicant represents that a cash sale at fair market value would be in the best interests and protective of the participants and beneficiaries of the Plan.

5. In summary, the applicant represents that the transaction meets the statutory criteria for exemption under section 408(a) of the Act because: (a) it is a one/time transaction for cash; (b) the Plan will receive not less than the fair market value of the Debenture as determined by Mr. Vernon; (c) the sale will allow a cash distribution of the assets of the Plan; and (d) the applicant represents that the sale of the Debenture to the Employer is in the best interests and protective of the participants and beneficiaries of the Plan.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Buchanan, Ingersoll, Rodewald, Kyle and Buerger Pension Plan (the Pension Plan) and the Buchanan, Ingersoll, Rodewald, Kyle and Buerger Profit Sharing Plan (the Profit-Sharing Plan; collectively, the Plans) Located in Pittsburgh, Pennsylvania

[Application Nos. D–4823 and D–4824]

Proposed Exemption

The Department is consideriing granting a exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase, sale and contribution of certain securities (the Securities) between the Plans and participants (the Participants) maintaining self-directed accounts (the Accounts) in the Plans, provided all purchases and sales of the Securities are conducted at fair market value and all participant contributions are valued at their fair market value on the date of contribution.

Summary of Facts and Representations

1. Buchanan Ingersoll is a law partnership (the Partnership) engaged in the practice of law on a regional, national and international basis. The Partnership maintains its principal office at 600 Grant Street, Pittsburgh, Pennsylvania. In May 1980, the partners of the Partnership formed a professional corporation (the Corporation) to facilitate the management of the firm's practice and for financial reasons. Although, the largest part of the firm's legal practice is performed and billed through the Corporation, the Partnership continues to provide services to non-Pennsylvania clients through its offices in Pittsburgh, Washington, D.C., and Boca Raton, Florida. The law firm currently consists of 100 lawyers, with 45 partners in the Partnership and an equal number of shareholders in the Corporation. Each individual who is a partner is also a shareholder and vice versa. As of July 1, 1983, both the Partnership and Corporation changed their name to "Buchanan Ingersoll". It is contemplated that the Plans will be formally retitled in the future.

2. The Plans consist of a profit sharing plan and a money purchase pension plan. As of December 31, 1982, each Plan had the same 130 Participants and combined assets having a total fair market value of $4,274.335. Approximately 31 percent of this amount ($1,325,043) was held by the Union National Bank of Pittsburgh (the Bank) in its "Equity Fund" in which various common stocks are held. Another 23 percent of this amount ($983,097) was invested by the Bank in fixed income securities under its "Fixed Income Fund". The remaining 46 percent ($1,966,194) was held in the self-directed Accounts. All of the assets of the Plans are collectively held with approximately 80 percent ($1,846,512) attributable to the Profit Sharing Plan and 20 percent ($461,628) attributable to the Pension Plan.

3. As noted above, the main trustee-directed investments of the Plans are held in two main funds—the "Equity Fund" and the "Fixed Income Fund". Participants are permitted annually to allocate and reallocate their contributions and Account balances between these two funds and are given information regarding the financial performances of those funds in order to make an informed decision. Participants are also permitted to establish the Accounts in which they may self-direct the investments of their Account balances. The Bank has currently established a $300 (or ½ percent, if greater) annual fee for setting up a directed Account in exchange for which the Participant is entitled to ten transactions without additional fees other than normal brokerage commissions. The $300 fee is designed to cover the administrative costs of the Bank in holding such Accounts.

4. The Bank, which serves as the trustee for the Plans, is a national banking association and a banking subsididary of Union National Corporation, a bank holding company. As of December 31, 1981, the Bank had total assets of over $1.3 billion. The Bank and the holding company are independent organizations although the

law Corporation provides a significant amount of legal services to the Bank and holding company on an ad hoc basis. Also, a partner/shareholder of the firm has served on the Board of Directors of the Bank and holding company in the past. Effective September 1, 1983, this partner/shareholder has discontinued his association with the firm, other than to remain "of counsel" in order to take over the position of Chairman of the Board of the Bank and the holding company. In his "of counsel" capacity, this individual will be paid a fixed stipend and retain one or two estate planning clients for administrative purposes. He will no longer continue to hold any shares of stock in the Corporation, and the disposition of these shares will take place shortly. He will also no longer receive any bonus distributions from the profits of the firm, nor recieve any distributions as a partner of the Partnership. Except as noted above, the bulk of his client responsibilities has been redistributed to other lawyers in the firm.

5. As stated previously, the Plans provide that a Participant may direct the Bank at any time in writing as to the investment or reinvestment of the assets of his/her Account. The Bank, however, retains discretion to ignore such investment direction if the direction is unclear or if the Bank determines the investment is unauthorized under the terms of the Plans. In such event, the Bank will notify the Participant to reconsider and file any new direction the Participant desires.

6. An exemption is requested to allow the Participants to engage in transactions with their Accounts that involve the purchase, sale and contribution of certain Securities. The Bank will continue to exercise discretionary judgment for those Securities selected for investment, as described above. The assets of the Accounts in which the Participants may invest are set forth in Article 5.05(c) of the documents for the Plans. These investments include: (a) shares of stock or options which are traded over the counter; (b) investment company shares (including shares in "money market" funds); (c) real estate investment trust shares; (d) bonds or commercial paper; (e) certificates of deposit; (f) savings vehicles insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; or (g) any other form of investment: (1) which is an intangible whose ownership is evidenced by a certificate, contract or other written document and (2) whose ownership does not involve physical custody or active management of tangible assets.

Because of a concern for ensuring a ready determination of fair market value of assets being transferred to, from or contributed to an Account, it is proposed that the Securities be limited to those traded on a national or regional securities exchange or with a brokerage firm acting as a principal. Also covered by the exemption will be the Securities traded on an over-the-counter market, mutual funds, Treasury and governmental agency issues and common or preferred stocks of national or state chartered banks (including stocks of the Bank) where bid and asked prices of the stock are quoted on the NASDAQ system and/or are published in *The Wall Street Journal*. The term securities will be held to cover stocks, bonds, options and other items, the bid and asked prices of which are regularly quoted by NASDAQ and/or published in *The Wall Street Journal*. Investments involving physical custody or active management of tangible assets as well as private sales and placements of securities or closely held securities, commodities, futures contracts, tax exempt municipal bonds, securities issued by the Corporation or securities purchased on margin or acquired subject to margin restrictions will not be included within the scope of the proposed exemption.

7. The application states that no separate appraisal or independent determination of fair market value will be required to value the Securities since price quotations appearing in *The Wall Street Journal* or those values listed in a national or regional exchange or NASDAQ quotations will be used. The fair market value price of the Securities sold to or contributed to an Account will be based on the price at the end of the day of actual transfer to the Plan. This day will be the one on which the Securities are physically transferred to the Bank for deposit to the Account. Where separate bid and asked quotes are given for any day, the average of the two figures will be used as the fair market value for purposes of the transfer.

8. With respect to the sales of the Securities from the Accounts to the self-directing Participant, the measure of fair market value will be that as shown in the NASDAQ quotations or in *The Wall Street Journal* for the end of the day on which the cash is presented by the Participant to the Bank. The amount to be presented by the Participant will be based on the value of the Securities at the end of the day preceding the date of delivery of the cash to the Bank. In the event of an increase in the price by the end of the day of the presentation of cash, the Participant will have the option to consummate the purchase by presenting additional cash to the Bank on the next following day or to withdraw the request for purchase of the Securities. Similarly, if the price should fall on the day of presentation of the cash, the cash will be first transferred to the Account to the extent of the total market value of the Securities involved, with any excess being returned to the Participant.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (a) each transaction will be conducted on the specific instructions of a Participant and only such Participant's Accounts in the Plans will be affected; (b) the Participants will be afforded greater flexibility and avoidance of brokerage fees and commissions on comparable transactions in the investment of their Accounts; and (c) the Bank will continue to exercise its discretion as a monitor in determining what investments should be held under the Accounts and what Securities may be sold, purchased or contributed.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Watson C.S.R. Inc. Employee Profit Sharing Plan (the Profit Sharing Plan) and the Watson C.S.R. Inc. Employee Pension Plan (the Pension Plan; collectively, the Plans) Located in Santa Monica, California

[Application Nos. D–4905 and D–4906]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plans of certain real property (the Real Property) for $114,788 in cash, to Mr. and Mrs. Michael Watson (the Watsons), provided the sale price for the Real Property is not less than its fair market value at the time the sale is consummated.

Summary of Facts and Representations

1. The Plans consist of the Profit Sharing Plan and the Pension Plan. As of August 31, 1983, each Plan had three common participants who are members of the Watson family, Messrs. Harry and Michael Watson are the trustees of the Plans (the Trustees), members of each Plan's administrative committee which makes investment decisions, and participants in both Plans. Mr. Harry Watson is also president, treasurer and a director of Watson C.S.R. (the Employer) as well as the owner of 66⅔ percent of its outstanding stock. Mr. Michael Watson is also a vice president, secretary and a director of the Employer as well as the owner of 33⅓ percent of the Employer's outstanding stock. The assets of the Plans are held in a combined trust. The Plans had assets of $212,471 as of August 31, 1983.

2. The Employer is a licensed California certified shorthand reporting service. The Employer maintains its principal place of business at 1523 Sixth Street, Santa Monica, California.

3. In November 1980, the Plans purchased a dwelling located at 1016–1018 South Adams Street, Glendale, California from an unrelated party for $114,500, payable in cash. The Real Property consists of a 50 foot by 150 foot lot improved with a one-story, wood frame duplex that was built in approximately 1924. Both dwelling units in the building contain one bedroom and one bath. Each unit is leased by the Plans to unrelated parties for a monthly rental of $300. The leasing arrangement commenced upon the Plans' acquisition of the Real Property.

Since the Plans have owned the Real Property, they have incurred real estate taxes, insurance, water, repair and miscellaneous expenses of approximately $4,363. There are presently no deeds of trust, loans or promissory notes encumbering the Real Property. However, the Real Property does adjoin a tract of land owned by Mr. and Mrs. Harry Watson.

4. The Trustees acquired the Real Property on behalf of the Plans for investment purposes. The Trustees believed the gain from this investment could be realized in one of two ways. Firstly, the Watsons thought the Real Property would appreciate in value in a manner typical to other properties in Southern California prior to 1980. Secondly, the Trustees believed a gain could be realized if Mr. and Mrs. Harry Watson and the Plans participated in a joint venture in developing the Real Property and the adjacent lot as condominium or apartment units.

5. The exemption application states that the Real Property has not increased in value as anticipated. In fact, it has declined. In addition, the application states that the joint venture arrangement between Mr. and Mrs. Harry Watson and the Plans may be a prohibited transaction in violation of the Act. Accordingly, the Trustees have decided to sell the Real Property for cash to Mr. and Mrs. Michael Watson for the original purchase price of $114,500 plus $288 representing the original closing costs. The Plans will not be required to pay any real estate commissions or fees in connection with the sale.[1]

6. On May 23, 1983, Mr. Jeffrey S. Zumbo (Mr. Zumbo), an independent real estate appraiser from Los Angeles, California placed the fair market value of the Real Property at approximately $112,500. In an addendum to the appraisal dated December 12, 1983, Mr. Zumbo stated that he valued the Real Property at its highest and best use. He also stated that the Real Property has no special value to Mr. and Mrs. Harry Watson by reason of its proximity to the adjacent lot. Therefore, he explained, he placed no premium on the value of the Real Property.

7. In summary, it is represented that the proposed sale of the Real Property will satisfy the criteria of section 408(a) of the Act because: (a) it will be a one-time transaction for cash; (b) the sales price of the Real Property will be based on in its original purchase price plus closing costs which are greater than the current appraised value of the Real Property as determined by Mr. Zumbo; and (c) the Plans will not be required to pay any real estate fees or commissions in connection with the sale.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Berton A. Lowell, D.D.S., P.A. Profit Sharing Plan and Trust (the Plan) Located in Ft. Lauderdale, Florida

[Application No. D–4959]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale, for $150,000 in cash, of certain real property (the Real Property) by the Plan to Dr. and Mrs. Berton Lowell (the Lowells), provided the sales price of the Real Property is not less than its fair market value at the time the sale is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with five participants and total assets of $425,605 as of March 31, 1983. The Lowells are the trustees of the Plan as well as the decisionmakers with respect to the Plan's investments. Dr. Lowell, who is engaged in the practice of dentistry, maintains this office at 3343 Northeast 33 Street, Fort Lauderdale, Florida.

2. On March 22, 1979, the Plan purchased the Real Property consisting of a 2,450 square foot retail store from Lucille A. Bramson and Beatrice Mallinger who were unrelated parties and personal representatives of the Estate of Ray T. Bramson (Mr. Bramson). The real Property is located at 3433 Galt Ocean Drive, Fort Lauderdale, Florida. The Plan paid $122,500 in cash for the Real Property.

3. At the time of acquisition, the Real Property was leased (the lease) in its entirety to National Bakers Services. Inc. (National), an unrelated entity, which had entered into the Lease with Mr. Bramson on June 20, 1967. National used the premises as a beauty salon. On July 15, 1969 and March 15, 1977, the Lease was modified by the parties. (The 1977 modification to the Lease was subsequently assigned to the Plan.) The Lease provided for a five year term commencing on August 15, 1977 and terminating on August 11, 1982. The monthly rental charged under the Lease was $1,020. National was responsible for maintaining the premises and paying real estate tax increments, insurance premiums and utilities on the Real Property. Upon becoming lessor, the Plan was responsible for repairs encompassed in the normal wear and tear of the Real Property and paying the base amount of real estate taxes. The Plan's leasing arrangement with National ceased in September 11, 1981, as the lessee was experiencing financial difficulties and hardship and was not prospering on the leased premises.

4 On July 1, 1982, the Plan began leasing the Real Property to Barnett Bank of South Florida (the Bank), an unrelated entity for an annual rental of $23,274 plus sales tax. The lease (the Bank Lease) is to expire July 1, 1987 but

[1] In this proposed exemption the Department expresses no opinion as to whether the acquisition and holding of the Real Property violated any provision of Part 4 of Title I of the Act.

it may be renewed for two successive five year terms.

5. The Lowells, as trustees, have determined that it is in the best interests of the Plan to sell the Real Property in order to provide the Plan with greater liquidity and diversification of investments. Despite efforts by the Lowells to sell the Real Property to unrelated parties, no purchasers have been found. Accordingly, an exemption is requested to allow the Plan to sell the Real Property to the Lowells for its fair market value as determined by an independent appraiser. The Plan will not be required to pay any real estate fees or commissions in connection with the sale.

6. The Real Property was originally appraised on September 11, 1981 by Mr. Robert D. Clobus (Mr. Clobus), an independent real estate broker and appraiser from the Fort Lauderdale area, who placed the fair market value of the Real Property at $160,000. Mr. Clobus also placed the fair rental value of the Real Property at $23,275 per year. On October 29, 1983, Mr. John L. Kirsch, an independent registered real estate broker from Pompano Beach, Florida reappraised the Real Property, placing its fair market value in an "as is condition" at $150,000.[1]

7. In summary, it is represented that the proposed transaction will satisfy the requirements of section 408(a) of the Act because: (a) the sale will be a one-time transaction for cash; (b) the sale price for the Real Property has been determined by an independent appraiser; (c) the Plan will not be required to pay any real estate commissions or fees in connection with the sale; and (d) the sale will allow the Plan to divest itself of an asset in order that it will have the benefit of greater diversification and a higher rate of return.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Dayton Animal Hospital Association, Inc. Profit Sharing Plan (the Plan) Located in Clayton, Ohio

[Application No. D–5034]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan to Dayton Animal Care, Inc. (the Affiliate), an affiliate of the Plan sponsor, of a parcel of land (the Property) adjacent to the offices of the Plan sponsor, provided the sales price is not less than the fair market value of the Property on the date of the sale.

Summary of Facts and Representations

1. The Plan sponsor is Dayton Animal Hospital Association, Inc. (the Employer), which is owned by the two shareholders who also own the Affiliate. As of September 13, 1983, the Plan covered 10 participants. As of September 30, 1983, the fair market value of the Plan's total assets was $195,450.30. The Plan trustees are Mr. William O. Smith, the President of the Employer, and Mr. Joe T. Fergus, the Secretary of the Employer.

2. The Property is a six-acre parcel of vacant land located on Brookville-Salem Road, Clayton, Ohio, adjacent to the Employer's offices. The Plan acquired the Property for $18,000 on October 31, 1974 (prior to the effective date of Part 4, Subtitle B, Title I of the Act) from Ms. Anna M. Rosell, who is not related to either the Employer or the Plan. The Plan initially acquired the Property with the anticipation that it would be used for further expansion of the Employer's business. However, there is no need for expansion of such business at present nor any plans for future expansion. Since acquiring the Property, the Plan has paid real estate taxes averaging approximately $375 per year and has incurred no other costs relating to the Property. The Property is vacant land and has not been put to any use since the Plan acquired it. Attempts to sell the property to an unrelated third party have been unsuccessful. It is represented that because of the lack of liquidity regarding the Property, the Plan could face liquidity problems when benefits become payable.

3. Mr. S. Larry Stein, an independent appraiser, has estimated the fair market value of the Property at $23,100 as of June 3, 1983. Mr. Stein states that land values have remained static in the area of the Property and that land sales are slow due to interest rate levels and general economic conditions in that area. Mr. Stein states that he has engaged in appraisals and consulting assignments for numerous clients during the past 29 years in connection with his real estate business. He explains that although he provided brokerage services for the Employer when it purchased its site, adjacent to the Property, he has no other relationship to the Employer's principals. In his opinion, the Property has no special value to the Employer, whose current site is ample for the Employer's needs for the foreseeable future.

4. The Plan proposes to sell the Property to the Affiliate for $23,100, payable in full in cash on the date of the sale. No commission or other selling expenses will be charged to the Plan.

5. In summary, the applicants represent that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the sale will be a one-time transaction for cash, (b) the sales price will equal the fair market value of the Property as determined by an independent appraiser, (c) no commissions or other selling expenses will be charged to the Plan, and (d) the sale will increase the liquidity of the Plan's assets and will enable the Plan to dispose of a non-income producing asset.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Pension Plan of the Marcel A. Thonet, M.D., P.C. Retirement Plan (the Plan) Located in Philadelphia, PA

[Application No. D–5035]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of a condomium located at Scienic Drive, Highlands, New Jersey (the Property) by the Plan to Marcel A. Thonet, M.D. and Janet Thonet, the trustees of the Plan (the Trustees), for $95,000 provided such amount is not less than the fair market value of the Property at the time of the sale.[1]

[1] Although the Real Property is located near Dr. Lowell's dental office, the application states that the Real Property has no special value to the Lowells by reason of its proximity. According to the exemption application, the Real Property was initially purchased by the Plan in the particular vicinity where it is located to allow the Lowells convenient access for maintenance purposes.

[1] Since Marcel Thonet is the only participant in the Plan and the sole shareholder of Marcel A. Thonet, M.D., P.C., the employer maintaining the Plan (the Sponsor), there is no jurisdiction under

Continued

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with one participant, Marcel A. Thonet, M.D. As of June 30, 1983, the Plan had assets of approximately $410,000. The Trustees are responsible for the investment decisions of the Plan.

2. The Property was purchased in 1974 for $60,950 in cash, from Snyder-Westerlind Corporation, an unrelated party. The Property was purchased with the intent that it provide rental income to the Plan and also provide the potential for future appreciation. Since its purchase, the Property has been used solely as a rental property. Neither the Trustees nor the Sponsor had ever utilized the Property. From September, 1974 through September, 1983 the Property has produced $62,335 in rental income for the Plan and cost the Plan $18,967.70 in maintenance charges and $16,686.16 in taxes.

3. As of September, 1983, the Property was renting for $710 a month, on a month to month basis. The monthly maintenance fee and monthly real estate tax payment amounted to $697.35. The applicant represents that it is becoming increasingly difficult to find tenants who are willing to pay that rent necessary for the Plan just to break even on its costs. The applicant further represents that over the last three years the Property's capital appreciation has not kept pace with the appreciation of the Plan's other assets.

On August 20, 1983 the Trustees entered into an agreement of sale whereby the Plan agreed to sell the Property to the Trustees contingent on the grant of an exemption from the prohibited transaction rules of the Code. A purchase price of $95,000 in cash was established.

4. The applicant requests an exemption to permit the cash sale of the Property by the Plan to the Trustees for $95,000 provided such amount is not less than the fair market value of the Property at the time of sale. On February 13, 1983, Karin K. Green, GRI, a real estate broker in New Jersey appraised the Property and determined that it had a fair market value of $93,000 as of that date. On October 20, 1983, Cornelius J. Guiney, MAI, appraised the Property and determined that it had a fair market value of $93,000 as of that date. The Plan will incur no expenses in connection with the sale of the Property. The sale will allow the Plan to dispose of the Property and to reinvest the proceeds of the sale in higher yielding investments.

5. The terms and conditions of the sale were reviewed by Leonard Landsburg, C.P.A. In July, 1983, Mr. Landsburg was appointed as an independent fiduciary to the Plan. Mr. Landsburg has no relationship to the Plan nor to the Sponsor. In a letter dated July 26, 1983, Mr. Landsburg acknowledges his appointment as independent fiduciary to the Plan. Mr. Landsburg represents that he is familiar and experienced with the requirements of ERISA and that he is aware of his rights, duties and liabilities under the terms of ERISA in connection with his appointment as an independent fiduciary. Mr. Landsburg further represents that he has reviewed the proposed sale of the Property and that it is in the interest of the Plan and its participant and beneficiaries.

7. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (1) the sale is to be a one-time transaction for cash with no expenses borne by the Plan; (2) the Plan will receive not less than the fair market value of the Property as determined by an independent appraiser; (3) the independent fiduciary of the Plan has reviewed the proposed sale and has determined that it is in the best interests of the Plan; and (4) the sale will allow the Plan to dispose of a marginal income producing asset.

Notice to Interested Persons

Because Marcel Thonet is the sole shareholder of the Plan sponsor and the only participant in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of the proposed exemption.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Jackson, Jones & Price, Inc. Retirement Pension and Profit-Sharing Plan (the Plan) Located in Tustin, California

[Application No. D-5090]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a parcel of undeveloped property (the Property) located in Riverside County, California, by Mr. and Mrs. Stanley R. Jones, to Mr. Jones' account in the Plan, for $90,400 in cash, provided such amount does not exceed the fair market value of the Property on the date of the sale.

Summary of Facts and Representations

1. The Plan is a corporate retirement pension and profit sharing plan with approximately 6 participants. Mr. Jones has an individually directed account in the Plan (the Account) which had assets of approximately $417,422, as of January 31, 1984.

2. On November 10, 1982, Mr. and Mrs. Jones purchased the Property from Irene Thomas, an unrelated party. The Property consists of approximately 160 unimproved and uninhabited acres in Riverside County, California. The Property is owned free and clear and all taxes due have been paid. Mr. and Mrs. Jones paid $90,400 for the Property.

3. Mr. Jones now wishes to transfer the Property into the Account so that the Account may hold the Property as a long-term investment. The Account is to pay the fair market value of the Property in cash. Mr. Hal Butts, of Warner, Huston and Butts, Inc., an independent real estate broker in Santa Ana, California, has represented that as of December 21, 1983, the Property's fair market value was still $90,400, the amount paid by Mr. and Mrs. Jones for the Property.

4. In summary, the applicant represents that the proposed transaction meets the criteria contained in section 408(a) of the Act because: (1) the transaction involves only about 21.7% of the Account's assets; (2) the sale is to be for a price established by an independent appraisal; and (3) Mr. Jones is the only Plan participant to be affected by this transaction and he desires that the transaction be consummated.

Notice to Interested Persons

Because Mr. Jones is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due 30 days after the date of publication of this notice in the **Federal Register.**

Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

For Further Information Contract: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Wake Pathology Associates, P.A. Pension Plan and Trust (the Plan) Located in Raleigh, North Carolina

[Application No. D–5112]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a 71% interest in a parcel of undeveloped property (the Property) located in Wake County, North Carolina, by Dr. and Mrs. J. Ron Edwards to Dr. Edwards' individually directed account in the Plan, for $59,000 in cash, provided such amount does not exceed the fair market value of the interest in the Property on the date of the sale.

Summary of Facts and Representations

1. Wake Pathology Associates, P.A. (the Employer) is a professional corporation engaged in the practice of medicine and pathology. The Plan is a money purchase pension plan with 10 participants. The Plan is administered by a committee of employees and directors of the Employer and by the Bank of North Carolina, N.A. Pursuant to the provisions of the Plan, each participant has the right to direct the investments under the Plan for his or her own account. In such instances, the investments are earmarked for the account of the participant directing such investments.

2. Dr. Edwards, who is a stockholder, director and employee of the Employer, has an individually directed account (the Account) in the Plan. As of January 31, 1984, Dr. Edwards had a total of approximately $246,000 in the Account.

3. Dr. and Mrs. Edwards currently own the Property, which is a tract of undeveloped real estate. The Property is located in Wake County, North Carolina and consists of 10.125 acres of land.

4. Dr. Edwards now wishes to sell a 71% interest in the Property to the Account for a long-term investment which will diversify the investments of the Account. The Account is to pay the fair market value of the interest in the Property in cash. The Account's interest in the Property will be duly filed and recorded with the Wake County, North Carolina Register of Deeds. Messrs. Martin L. Wachtel, III, M.A.I., and Jerry L. McGuirt of Worthy & Wachtel & Associates, independent real estate appraisers in Raleigh, North Carolina, have appraised the Property as having a fair market value of $83,025 as of December 13, 1983.

5. In summary, the applicant represents that the proposed transaction meets the criteria of section 408(a) of the Act because: (1) the transaction involves about 24% of the Account's assets; (2) the sale is to be for a price established by independent appraisal; (3) Dr. Edwards is the only participant of the Plan to be affected by the transaction; and (4) Dr. Edwards has determined that the proposed transaction is appropriate for and in the best interests of the Account, and he desires that the transaction be consummated by the Account.

Notice to Interested Persons

Because Dr. Edwards is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days after the date of publication of this notice in the **Federal Register.**

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 26th day of April 1984.

Elliot I. Daniel,

Acting Assistant Administrator, for Fiduciary Standards, Office of Pension and Welfare, Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–11703 Filed 4–30–84; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–493), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Special Projects Section) to the National Endowment for the Arts will be held on May 11, 1984, from 9:00 a.m. to 2:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

The meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman

published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–11767 Filed 4–30–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Thursday and Friday, May 17–18, 1984. The meeting will be held in the Towne and Garden South rooms of the Town & Country Convention Center located at 500 Hotel Circle North, San Diego, CA. The meeting will commence at 9:00 a.m. and end at 5:00 p.m. on May 17 and will commence at 8:30 a.m. and end at 3:30 p.m. on May 18. The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Thursday, May 17, 1984

Town & Country Convention Center, San Diego, CA, Towne Room
9:00 a.m.—12:00 noon— Plenary
• Exclusive Economic Zone
Speaker: None
12:00 Noon—1:00 p.m.—Lunch
1:00 P.m.—5:00 p.m.—Plenary
• Exclusive Economic Zone
Speakers: None
5:00 p.m.—Recess

Friday, May 18, 1984

Town & Country Convention Center, San Diego, CA, Towne and Garden South Rooms
8:30 a.m.—12:00 Noon—Panel Meetings
• Shipbuilding, Chairman: Don Walsh, Gardern South Room
Topic: Panel Work Session
Speakers: None
Panel Meetings Continued
• Underwater Technology, Chairman: Sylvia Earle, Towne Room
Topic: Panel Work Session
Speakers: None
12:00 Noon—1:00 p.m.—Lunch
1:00 p.m.—3:30—Plenary
• Discussion of Priorities
• Panel Reports
3:30 p.m.—Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meetings. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 330 Whitehaven Street, NW., Washington, DC 20235.

Dated: April 26, 1984.

Steven N. Anastasion,

Executive Director.

[FR Doc. 84–11716 Filed 4–30–84; 8:45 am]

BILLING CODE 3510–12–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Time Change

The ACRS Subcommittee meeting on the Safety Research Program scheduled to begin at 10:00 a.m. on May 9, 1984, Room 1046, at 1717 H Street, NW., Washington, DC *has been changed to begin at 8:30 a.m.* The Subcommittee will review the proposed NRC Safety Research Program and Budget for FY 1986 and 1987 and gather information for use by the ACRS in its preparation of the ACRS report to the Commission on the related matter. Notice of this meeting was published April 20, 1984 (49 FR 16899).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 25, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–11699 Filed 4–30–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Cancelled

The ACRS Subcommittee on Regulatory Activities scheduled for May 9, 1984, Room 1046, at 1717 H Street, NW., Washington, D.C., has been cancelled. Notice of this meeting was published April 20, 1984 (49 FR 16899).

Dated: April 25, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–11700 Filed 4–30–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13897; (812–5708)]

Central of Kansas, Inc.; Application

April 23, 1984.

Notice is hereby given that Central of Kansas, Inc. ("Applicant"), 802 N. Washington, Junction City, Kansas 66441, a Kansas corporation, filed an application on November 15, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order of the Commission exempting five corporations recently formed by Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representation contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it was organized under the laws of Kansas in 1982, and is a one-bank holding company registered under the Bank Holding Company Act of 1956, as amended. Applicant's principal subsidiary is The Central National Bank

of Junction City ("Bank"), which is engaged in the commercial banking and trust business in Junction City, Kansas. Applicant's stock is held of record by approximately 125 stockholders and is not registered under the Securities Exchange Act of 1934.

It is further stated that under Kansas law a bank holding company may not acquire 25 percent or more of the voting shares of more than one bank. Thus, Applicant represents that until such time as Kansas law is changed to permit multi-bank holding companies, Applicant cannot acquire more than 24.9 percent of the stock of any bank other than Bank. Applicant notes as well that because Kansas law does not restrict the ownership by individual stockholders, singly or collectively, of more than one bank or bank holding company, various means have been employed to create privately-owned chain-bank systems under which each bank in the system is held by a one-bank holding company that is under common control with others in the system.

Applicant believes that in order to compete effectively for deposits with money market funds and other financial institutions, it must, in the long term, have the ability to acquire banks in other communities. With the continuing expansion and growth of privately-owned chain-bank systems and the recent entry into the bank acquisition marketplace of larger competitors, Applicant represents that its need to secure this capability has become immediate. Without an early capability for expansion, Applicant's management believes that many attractive acquisition opportunities could well be lost and that Applicant's stockholders will not be able to take advantage of opportunities to maximize the value of their banking investment. Accordingly, Applicant has developed a plan to provide a vehicle for its acquisition of significant interests in other banks or bank holding companies located in Kansas and give Applicant the right to acquire the remaining interests at such time as multi-bank holding companies are permitted in Kansas. Applicant believes that the proposed plan is superior to the alternative means of acquiring significant interests in other Kansas banks because it will enable all of its stockholders to participate in the benefits of such acquisitions.

Applicant further states that the proposed plan involves the creation of five new subsidiaries—Central of Kansas I, Inc., Central of Kansas II, Inc., Central of Kansas III, Inc., Central of Kansas IV, Inc. and Central of Kansas V, Inc. (individually, a "Corp", and collectively the "Corps"), which have been initially capitalized by the sale of stock to Applicant in exchange for the assignment of time deposits purchased with funds borrowed by Applicant from an unrelated bank. Applicant further states that each Corp will attempt to purchase a bank or bank holding company with the funds provided from its initial capitalization, together with the proceeds of additional stock sales to Applicant and loans from Applicant. In order to ensure the availability of consolidated tax returns, Applicant represents that no such acquisition will be effected unless at least 80 percent of the stock of a bank or bank holding company can be acquired.

Applicant proposes to distribute 95.1 percent of the Corps' stock to its stockholders. To effectuate this distribution, each of the Corps has filed a registration statement under the Securities Act of 1933 to register the shares to be spun off. Concomitantly with such distribution of shares of stock of the Corps, Applicant represents that it will enter into an agreement with each of the Corps providing for, (1) an option under which Applicant is granted the right to purchase, and each Corp agrees to sell, a sufficient number of Corp shares so that subsequent to the purchase of a target bank Applicant will own up to 24.9 percent of the stock then outstanding, including the stock which Applicant received and retained in the formation of the Corps; and (2) an option to Applicant to purchase all of the assets of any such Corp.

Applicant states further that under its option to purchase up to 24.9 percent of the common stock of the Corps, the purchase price of the shares will be based upon the net book value of the Corps stock. Applicant represents that the option agreement will be subject to two conditions precedent. First, a Corp must enter into an agreement in principle or a legally binding agreement for the purchase or not less than 80 percent of the outstanding voting shares of a bank or bank holding company. Applicant states that the reason for this condition is that, as the purpose of the proposed transaction is to create a method through which its stockholders may collectively expand their investments in banking, further investment of funds, exceeding the initial capitalization of the Corps, will be unnecessary until such time as a Corp is to purchase a bank or bank holding company. Second, the purchase of stock pursuant to the option agreement will be subject to the approval of the Board of Governors of the Federal Reserve System.

Applicant further states that under the purchase option granting it the right to acquire all of the assets of the Corps in exchange for Applicant's common stock, the exercise price is to be based upon the respective book values per share. This option will be exercisable only at such time as such purchase is permissible under Kansas law. It is further stated that the purpose of the asset purchase option is to enable Applicant's stockholders to consolidate their investments at such time as and when Kansas law would allow such consolidation. Applicant notes that the exact method of accomplishing the consolidation of interests has not yet been determined, but that a tax-free reorganization is contemplated. Applicant states that although different terms may be negotiated in the future, it believes that the immediate granting to it of an irrevocable option to purchase the assets is necessary in order to accomplish the overall objective of providing its stockholders a method through which they may collectively expand their investments in banking without violating Kansas banking law.

Applicant represents that the Corps will seek to make bank acquisitions considered attractive by management. Applicant states that if the capitalization of a Corp is not sufficient to finance the purchase of a given bank or bank holding company, Applicant may assist the acquisition through the provision of capital, either through loans from Applicant to the Corp, or the issuance of non-voting preferred stock to Applicant by the Corp. Applicant notes that the purchase of non-voting preferred stock in banks or bank holding companies is not limited by Kansas banking law. In addition, a Corp may issue preferred stock to the sellers of a target bank or bank holding company.

Applicant states that one of the important components of the proposed plan is to ensure that stockholders of Applicant acquire ownership for Federal income tax purposes of the Corps' stock during Applicant's current fiscal year, ending December 31, 1983. Since Applicant was recently organized and has little or no accumulated earnings and profits for tax purposes, Applicant has sought a ruling from the Internal Revenue Service confirming that the distribution of the Corps' stock would constitute a dividend only to the extent of any current or accumulated earnings and profits, and that, to the extent that the distribution should exceed such earnings and profits, it would constitute either a non-taxable return of capital or

a gain to Applicant's stockholders. Applicant states that but for this tax factor, the distribution of the stock of a particular Corp by Applicant to its stockholders could be timed to coincide with entering into an agreement in principle to acquire the stock of a bank or a bank holding company. Applicant points out that in such case, the period during which such Corp's assets would need to be invested to preserve their value would be eliminated almost completely. Applicant submits that it would be unfair to impose such a tax burden on its stockholders (who, Applicant notes, will also be the Corps stockholders), merely in order to avoid the potential costs and burdens of registration and regulation under the Act.

It is further stated that during the period between the sale of stock of each Corp to Applicant and the use of the proceeds of such sales by each Corp (together with certain additional funds to be provided from the sources described above) to acquire at least 80 percent of the stock of a bank or bank holding company, those proceeds will be held in time deposits in a national bank, the interest on which will be compounded automatically, solely in order to preserve the value of the assets of the Corps. Applicant states that it believes the Corps could resolve any question of registration and regulation under the Act by holding their assets in cash or in non-interest-bearing bank accounts, but that unless such assets are appropriately invested there will be a depletion of those assets by a discount factor equal to the time value of money.

Applicant further represents that it anticipates that the Corps will acquire their respective banks within three years from the date of the order sought herein and, therefore, the Corps will cease to fall within the Act's definition of an investment company at that time. Applicant states that, because of the difficulty of finding suitable acquisition targets in the current competitive environment, it would be unable to represent that such acquisitions are certain to occur within three years.

In conjunction with the foregoing, Applicant asserts that the Corps would qualify for exception from the Act's definition of investment company but for the length of the period during which their assets may be invested in time deposits, which period may, depending upon the availability of suitable acquisition candidates, exceed one year. Applicant is therefore requesting that the Commission issue an order pursuant to Section 6(c) of the Act exempting each of the Corps from all of the provisions of the Act.

Applicant submits that its requested exemptive order should be granted because the Corps will have a bona fide intent to be engaged primarily, as soon as reasonably possible, and in any event in less than three years, in a business other than that of investing, reinvesting, owning, holding, or trading in securities. Applicant states that this intent is evidenced by the purpose in forming the Corps as well as the competitive factors outlined above. Applicant further states that this intent will also be evidenced by the same objective standards set forth in Rule 3a–2 under the Act. Applicant represents in this regard that the predominant activity of the Corps during the period prior to consummation of an acquisition will be identifying suitable acquisition candidates and negotiating the terms of an acceptable acquisition agreement. Applicant further represents that there may be regulatory waiting periods and other factors beyond its control involved in this process. The Corps' investments in time deposits, Applicant represents, will be made solely in order to preserve the value of the capital of the Corps pending the acquisition of a bank or bank holding company, and there will be no speculative activity in such investments. In view of the limited purpose of their investments, their temporary nature, and the lack of speculative activity, Applicant submits that the Corps should not be deemed to be engaged primarily in the business of investing, reinvesting, or trading in securities.

Applicant points out that in accordance with Rule 3a–2 under the Act, the bona fide intent discussed above has been evidenced by the adoption by each Corp's board of directors of a series of resolutions to the effect that, prior to the acquisition of 80 percent or more of the outstanding stock of a bank or bank holding company: (i) The Corp's assets will be held solely as time deposits; (ii) such investments will be made solely in order to preserve the value of the Corp's capital and the Corp shall not engage in any sort of speculative activity in such securities; (iii) the sole purpose and business activity of the Corp during such period (other than the making of investments to preserve the value of their capital) shall be that of finding banks or bank holding companies suitable for acquisition and effectuating such acquisitions; (iv) the Corp's management has been authorized, empowered and directed to use its best efforts to accomplish the foregoing purpose as soon as reasonably possible; (v) the Corp shall not hold itself out as being engaged primarily in the business of investing, reinvesting, owning, holding, or trading in securities. Applicant submits that the limitations placed on the Corp's business activities by such resolutions should also ensure that those activities are consistent with the policies underlying Rule 3a–2 under the Act and the standards for granting exemptive relief under Section 6(c).

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 18, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interests, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon 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. 84–11668 Filed 4–30–84; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 13900; (811–2379)]

Application; The Cyprus Corp.

April 24, 1984.

Notice is hereby given that The Cyprus Corporation ("Applicant"), Two Chatham Center, Pittsburgh, PA 15219 registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application on January 19, 1984, and an amendment on April 18, 1984, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. 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.

Applicant, a Delaware corporation, registered under the Act on April 27, 1973, and filed registration statements pursuant to Section 8(b) of the Act on April 27, 1973 (File No. 2–47838, effective June 22, 1973), March 17, 1976 (File No. 2–55724, effective June 24, 1976), September 18, 1980 (File No. 2–69196, effective October 24, 1980) and August 22, 1983 (File No. 2–86019, effective November 18, 1983). Applicant states that on November 30, 1983, its shareholders adopted amendments to Applicant's charter and by-laws, authorizing Applicant to cease being an investment company.

Applicant further states that on December 29, 1983, a wholly-owned subsidiary of Applicant consummated the acquisition of substantially all the assets and liability of Special Metals Corporation ("SMC") through a merger of SMC into Applicant's subsidiary. Applicant states that after this acquisition on December 29, 1983, approximately 11% of its total asset value consisted of investment securities. Applicant represents that consummation of the acquisition of SMC by the subsidiary resulted in Applicant's ceasing to be an investment company as that term is defined in Section 3(a) of the Act. Applicant proposes to continue as an operating company subject to the Securities Exchange Act of 1934 having its common and preferred stock listed on the American Stock Exchange.

According to the application, Applicant, on or about November 22, 1983, sent to each of its common stockholders transferable subscription warrants and a prospectus dated November 18, 1983, describing an offering to the common stockholders of 5,729,817 shares of Applicant's common stock. The offering was subsequently fully subscribed. Applicant states that as of January 6, 1984, it had 40,108,723 shares of common stock outstanding which were held by approximately 16,026 shareholders and 1,136,891 shares of commulative preferred stock outstanding which were held by 1,731 shareholders.

Applicant states that is has been the stated intention of Applicant's management since 1979 to convert Applicant to an operating company. Applicant's management has pursued this intention by acquiring SMC, Quasitronics, Inc., and Astrotech International, all of which are operating companies which Applicant plans to support and expand. Applicant states that as of the date of application its primary business is the management of its subsidiaries' businesses.

According to the application, as of January 6, 1984, Applicant's assets on an unconsolidated basis were approximately $43,718,000 and its liabilities were approximately $1,574,000. Applicant states that as of that date it had no senior securities constituting indebtedness except its quarantee of $7,000,000 aggregate principal amount of Boward County, Florida, Industrial Development Revenue Bonds Series 1983 (Astrotech International Corporation Project) issued in connection with the financing of a project for Applicant's wholly-owned subsidiary. Applicant states that as of January 6, 1984, its investment portfolio consisted of investment securities ($4,821,000) and cash and government securities ($3,660,000). Applicant represents that it may liquidate all or part of its investment portfolio for use in future acquisitions, meeting its future cash needs (including dividends of approximately $2,000,000 annually paid on its preferred stock) or to increase investments in its existing operating subsidiaries. Applicant represents that it may retain all or a portion of its investment portfolio or re-establish an investment portfolio following the liquidation of its present investment porfolio. However, Applicant does not intend to engage or hold itself out as being engaged in any business described in Section 3(a) (1), (2) or (3) of the Act. Finally, Applicant represents that it is not a party to any pending litigation or administrative proceedings.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reason 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. 84–11665 Filed 4–30–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13896; (811–863)]

Southeastern Capital Corp.; Application;

April 23, 1984.

Notice is hereby given that Southeastern Capital Corporation ("Applicant"), Suite 101, 2285 Peachtree Road, N.E., Atlanta, Georgia 30309, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on February 17, 1984, and an amendment thereto on April 9, 1984, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company within the meaning of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated as a Tennessee corporation in 1958 under the name Tennessee Investors, Inc. and was the first federally licensed small business investment company ("SBIC") under the Small Business Investment Company Act of 1958. Applicant states that it also registered as a closed-end, non-diversified management company under the Act. Applicant further states that in June, 1961, the company's name was changed to Southeastern Capital Corporation and 530,394 shares of its common stock were sold pursuant to a public offering.

The application states that in 1965, a reorganization was apporved by the stockholders of Applicant, the Commission, and the Small Business Administration ("SBA") whereby Fulton Investment Company, a Georgia corporation, was merged into the company and the Fulton Investment Company stockholders received 395,500 shares of Applicant's stock.

The application states that in 1970, Applicant created a wholly-owned subsidiary named Southeastern Capital Small Business Investment Corporation ("SCSBIC"), and transferred its SBIC license to SCSBIC along with assets having a value of $1,500,000. The application further states that SCSBIC registered under the Act. According to the application, Applicant continued its operations as a registered closed-end non-diversified management investment company. The application states that on December 30, 1970, Applicant's stock was listed for trading on the American Stock Exchange.

According to the application, in 1975, the company was merged into Phoenix, Inc., a Georgia corporation and was renamed Southeastern Capital Corporation which registered as an investment company under the Act and continued the business operations of Applicant. Applicant states that at that time it invested in a highly diversified portfolio of publicly traded stocks, in a portfolio of corporate bonds and in a more limited number of venture capital investments in restricted securities of companies usually classified as small business concerns. Applicant states that it continued its election to qualify under Subchapter M of the Internal Revenue Code and annually distributed all of its net investment company income and substantially all of its realized capital gains to its stockholders. Applicant states that its final distribution of undistributed 1981 net investment company income was paid to stockholders in 1982. Applicant asserts that its investment capital declined as a reuslt of its Subchapter M election and that for this reason and others, in 1982, management recommended a change in the company's investment policies to the stockholders. Applicant states that on January 25, 1983, Applicant's stockholders by a majority vote at a special meeting: (i) authorized the change of the business purpose of Applicant from an investment company to an operating company; (ii) adopted Restated Articles of Incorporation to authorize such change of business purpose; and (iii) authorized the filing of an application with the Commission to deregister the company as an investment company under the Act.

The application states that on February 3, 1983, Applicant filed with the Secretary of State of Georgia Restated Articles of Incorporation effecting the company's change of business purpose. The application states that Applicant and SCSBIC sold substantially all of their small business type investments, and SCSBIC was liquidated as a corporation and its SBIC license surrendered. Applicant states that it has recently acquired substantial investments in several operating companies, and plans to control the management of the business of such companies.

The application states that on January 27, 1984, SCC Petroleum Corporation, a North Carolina corporation ("SCC") then wholly-owned by Applicant purchased all of the equity of nine corporations and one partnership engaged primarily in the distribution of gasoline and oil products, and related operations, in North and South Carolina. The application states that on March 28, 1984, SCC purchased the stock and partnership interests of these businesses for cash and notes, and then merged them into SCC with SCC being the sole surviving entity. Applicant asserts that in connection with the consummation of the purchase of the business, SCC issued stock to certain equity owners of the businesses but Applicant retained ownership of more than 80% of the issued and outstanding stock of SCC. Applicant states that its investment in SCC consists of $1,100,000 in stock and subordinated debentures. Applicant states further that the majority of the board of directors and officers of SCC consist of officers of Applicant. According to the application SCC had total assets of approximately $23,470,000 as of March 1, 1984.

The application states that in November 1983, Applicant entered into a Stock Purchase Agreement ("Agreement") providing for the purchase by Applicant for $10,200,000 of all of the issued and outstanding stock of Scranton Broadcasters, Inc., a Pennsylvania corporation, and the owner and operator of Station WDAU–TV. Applicant states that pursuant to the terms of the Agreement, Applicant deposited a down payment of $1,000,000 in escrow, and is awaiting the approval of the Federal Communications Commission of the transfer of the WDUA–TV license to close the purchase transaction. Applicant asserts that it has assigned its rights under the Agreement to its wholly-owned subsidiary, SB Television, Inc., a Georgia corporation ("Sub") whose officers and directors are also officers and directors of Applicant.

Applicant states that as of March 31, 1984, Applicant had total assets of approximately $9,238,372 including its interests in SCC of which approximately $5,824,377 is in cash, cash equivalents and government securities. Applicant states that its remaining assets are deployed as follows (all in approximate amounts): $1,100,000 in SCC; $459,000 in investment securities; and $1,854,900 in other investments.

Applicant asserts that it is no longer an investment company as defined under the Act. Section 3(a)(1) of the Act defines an investment company as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. By virtue of its change of business purpose and acquisition of its interest in SCC, Applicant states that it has ceased to be engaged primarily in the business of an investment company. Further, Applicant states that it has no intention of disposing of its interest in SCC or in Sub. Additionally, Applicant asserts that it is no longer within the definition of an investment company contained in Section 3(a)(3) of the Act, since it no longer owns investment securities having a value exceeding 40 percent of the value of its total assets, exclusive of government securities and cash items.

Section 8(f) of the Act provides that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order. The Commission may condition the order if necessary for the protection of investors. Applicant has consented to the requested order of deregistration being conditioned upon the Commission's retention of such jurisdiction as it may deem necessary for the protection of investors. In that regard Applicant states that immediately upon effectiveness of its deregistration under the Act, the company's common stock shall be deemed to be registered pursuant to Section 12(g)(1) of the Securities Exchange Act of 1934 pursuant to Rule 12g–2 promulgated thereunder.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 18, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–11666 Filed 4–30–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

April 23, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Cooper Laboratories, Inc.
Common Stock, $.10 Par Value (File 7–7421)
Michigan Sugar Company
Common Stock, $1 Par Value (File 7–7422)

These securities are listed and registered on one of more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84–11667 Filed 4–30–84; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

April 25, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Home Depot Inc. (The)
Common Stock, $.05 Par Value (File No. 7–7423)
Park Electrochemical Corporation
Common Stock, $.10 Par Value (File No. 7–7424)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 16, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84–11670 Filed 4–30–84; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–20884; File No. SR–NYSE–84–11]

Self-Regulatory Organizations; Proposed Rule Changes; New York 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 April 2, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed adoption of Rule 150 is intended to provide for the preservation of rights available in securities loan transactions to broker-dealers where one party to such transaction becomes insolvent.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

Section 555 of the Bankruptcy Code (11 U.S.C. 101 *et seq.* (the "Bankruptcy Code")) provides that no provision of the Bankruptcy Code will operate to stay or limit the right of a securities broker-dealer to liquidate an outstanding securities loan upon the bankruptcy of the *contra* party to the loan provided the broker-dealer has the "contractual" right to do so. This contractual right may be set forth in a written agreement between the parties or may be set forth in a rule of a national securities exchange to which both parties are subject. Proposed Rule 150 would satisfy the latter alternative.

New Rule 150 provides that any securities borrowing transaction between members confers on each member the right to liquidate the contract in the event of specified actions on the part of the *contra* party; requires a member entering such a transaction with a non-member to obtain the same right to liquidate pursuant to a written agreement; and reminds members that the borrowing of securities from a customer is subject to Rule 15c3–3 under the Securities Exchange Act of 1934 (the "Act").

Rules 151 through 161 are proposed to be rescinded since they were intended to apply to security borrowings transacted on the Floor of the Exchange, and the borrowing of securities no longer takes place on the Floor.

The proposed adoption of Rule 150 is consistent with Section 6(b)(5) of the Act in that it will facilitate transactions in and foster coordination of clearing and settling transactions in securities. Specifically, Rule 150 will enable members to come within the protection afforded by the Bankruptcy Code to liquidate securities loan positions where the contra party becomes insolvent. In addition, a member who has the ability

to liquidate these positions will be better able to monitor its compliance with the net capital provisions of the Act under rule 15c3–1 since the member can remove uncertainty as to its status concerning the contra party to a securities loan transaction.

Rescission of Rules 151 through 161 will not affect the ability of the Exchange to enforce compliance by its members, and persons associated therewith, with the provisions of the Act and rules of the Exchange in accordance with Section 6(b)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes 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 changes, or

B. Institute proceedings to determine whether the proposed rule changes 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

(For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 20, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–11868 Filed 4–30–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–20885; File No. SR–PHILADEP 84–2]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Depository Trust Co.; Relating to Customer Name Transfer Mailing Service

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 March 22, 1984, Philadelphia Depository Trust Company 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

Philadelphia Depository Trust Company (PHILADEP) proposes to make its customer name transfer mailing service a permanent program open to all participants. PHILADEP has been operating this service on a pilot basis since May 1983 (See SR–PHILADEP 83–3). One modification will be introduced into this service in its permanent form: paper instructions will be accepted as well as tape transmission at an additional charge of $.50 per transfer instruction.[1] Copies of the Procedures for both paper and tape input are attached as Exhibit A.

II. Self-Regulatory Organization's Statement of 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 the basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements:

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

Because of the success of the customer name transfer mailing service in its pilot form, PHILADEP wishes to make the service available to all its participants. In order to accommodate its smaller participants, PHILADEP will provide for the input of instructions in paper form, in addition to the tape transmission that would be the likely form of input from the larger participants. This modification will make the program more accessible to the full range of PHILADEP's participants.

As stated in the original filing, PHILADEP believes the proposed rule change is consistent with the provisions of Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the "Act") in that it will promote the prompt and accurate clearance and settlement of securities transactions. The Commission concurred with this assessment in Release No. 20112 dated August 25, 1983, and stated further that the pilot program promoted the safeguarding of securities in PHILADEP's custody or control, or for which it is reponsible, by reducing the physical movement of securities and enhancing the safety of the processing of securities transfers.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not perceive any burden on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments on the proposed rule change have not been 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

[1] In addition to the $1.00 transfer charge, the $1.75 customer name mail charge, and registered mail fees, if applicable.

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 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 23, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-11723 Filed 4-30-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 905]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Date Submitted—March 12, 1984.

Form number—N/A.

Origin—Bureau of Administration, Office of Supply, Transportation and Procurement.

Type of submission—New.

Title—Procurement Solicitations.

Purpose—Issuance of solicitation documents for all acquisition actions over the small purchase limitation is required by the Federal Procurement Regulations and Federal Acquisition Regulations. This request has been prepared with a cognizance of the FAR and is intended to satisfy all requirements relating thereto.

Respondents—Prospective Federal Government Contractors.

Estimated number of respondents—1,008.

Estimated number of burden hours—97,664.

Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information and Comments

Copies of the information collection request and supporting documents may be obtained from Gail J. Cook (202) 632-3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: April 9, 1984.

Robert E. Lamb,

Assistant Secretary for Administration.

[FR Doc. 84-11691 Filed 4-30-84; 8:45 am]

BILLING CODE 4710-22-M

[Public Notice CM-8/735]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC), will conduct an open meeting at 9:30 AM on May 31, 1984, in Room 2417 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to finish preparations for the 52nd Session of the Council of the International Maritime Organization (IMO), scheduled for June 11-15, 1984 in London. In particular, the SHC will discuss the development of the U.S. positions dealing with, among others, the following topics:

Reports of the various IMO committees

World Maritime University; progress report

Relations with the U.N. and the Specialized Agencies

Financial and personnel matters

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. G. P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-2280.

Dated: April 11, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-11712 Filed 4-30-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB March 27-April 11, 1984

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Mar. 27-Apr. 11, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or Gary Waxman of Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. As needed, the Department of Transportation will publish in the Federal Register a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on

the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Mar. 27–Apr. 11, 1984:

DOT No: 2408

OMB No: New
By: Federal Highway Administration
Title: Submission of Alternate Procedures for Processing Utility Adjustments
Forms: None
Frequency: On Occasion
Respondents: State highway agencies

Need/Use: The alternate procedures process allows the State highway agencies to review and approve reimbursements for most typical utility disruptions caused by Federal-aid highway construction projects.

DOT No: 2409

OMB No: 2120–0007
By: Federal Aviation Administration
Tile: Flight Engineers & Flight Navigation—FAR 63
Forms: Federal Aviation Administration Form 8400–3
Frequency: Occasion
Respondents: Individuals

Need/Use: Federal Aviation Administration Act Sections 602(a) and 607 authorize issuance of airmen certificates and provide for examination and rating of flying schools. 14 CFR 63 prescribes requirements for flight engineer and flight navigator certification and training course requirements for these airmen. Information collected is used to determine eligibility for certificates.

DOT No: 2410

OMB No: New:
By: National Highway Traffic Safety Administration
Title: Tire Registration Survey
Forms: None
Frequency: Non-recurring
Respondents: Businesses and other for profit organizations

Need/Use: To collect data from independent tire dealer/distributors on tire registration practices, and data from manufacturer shipment/registration before and after passage of new rule.

DOT No: 2411

OMB No: 2130–00041
By: Federal Railroad Administration
Title: Hours of Service Exemption and Construction of Employee Sleeping Quarters
Forms: None
Frequency: On Occasion
Respondents: Railroads

Need/Use: This information is needed to monitor the hours of service of railroad employees and the construction of employee sleeping quarters near work sites for the purpose of extending work hours of individual employees by exemptions in certain instances.

DOT No: 2412

OMB No: New
By: Federal Highway Administration
Title: Highway Planning and Research—Annual Work Program
Forms: None
Frequency: Annually
Respondents: State Highway Agencies

Need/Use: The Annual Work Program is necessary to determine how Federal Highway Administration highway planning and research funds will be utilized by State highway agencies and if the proposed work is eligible for participation in Federal grant programs.

DOT No: 2413

OMB No: New
By: National Highway Traffic Safety Administration
Title: Hydraulic Brake Systems, 49 CFR 571.105
Forms: None
Frequency: On Occasion
Respondents: Motor Vehicle Manufacturers of Master Cylinders

Need/Use: This standard requires manufacturers and suppliers of master cylinders and replacement caps to imprint certain information on the cylinder and replacement caps. The practice assists in identification and recall of defective parts as well as to ensure that the correct replacement is used.

DOT No: 2414

OMB No: New
By: National Highway Traffic Safety Administration
Title: Motor Vehicle Brake Fluids, 49 CFR 571.116
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of Brake Fluids

Need/Use: This standard requires manufacturers and packagers of brake fluids to furnish specific information on the containers of brake fluids. This safety measure insures proper usage to avoid brake failure.

DOT No: 2415

OMB No: 2125–0510 and 2120–0080 combined
By: Office of Secretary—Policy & International
Title: Uniform Relocation Assistance and Real Properety Acquisition Policies Act of 1970, Acquisition for Federal and Federally-Assisted Programs (Airport, Highway, Urban Rail)
Forms: SF 262, SF 263, SF 264, SF 265, SF 266, SF 267
Frequency: Annual
Respondents: States, Local Governments, Airport Operators, Transit Agencies

Need/Use: The Uniform Act requires that actions be documented and contained in the agencies files to assure prudent expenditures of public funds, and assure protection of the rights of property owners and occupants. It further serves to provide a means by which DOT personnel can exercise oversight of a program which is both costly and sensitive.

DOT No: 2416

OMB No: New
By: Federal Railroad Administration

Title: Rear-End Marking Devices (Trains)
Forms: None
Frequency: On occasion
Respondents: Railroads

Need/Use: By the Railroad Safety Act of 1976, FRA is required to issue specifications for marking the rear-end of passenger and freight trains with a device or equipment with high visibility, both night and day, from behind and at specified angles on both sides of center line.

DOT No: 2417

OMB No: 2127–0004
By: National Highway Traffic Safety Administration (NHTSA)
Title: 49 CFR Part 573, Defect and Noncompliance Reports
Forms: None
Frequency: On occasion
Respondents: Businesses or organizations

Need/Use: Manufacturers of motor vehicles and motor vehicle equipment are required to report to NHTSA when a defect or noncompliance with safety standards may surface in their equipment, so that the agency can monitor the corrective action taken and see that the defect is appropriately publicized to owners, or that a recall is made of defective parts.

DOT No: 2418

OMB No: New
By: Federal Railroad Administration (FRA)
Title: Transmission of Train Order by Radio (Records kept)
Forms: None specified
Frequency: Recordkeeping
Respondents: Railroads

Need/Use: FRA uses this recorded information to assure safe and uniform procedures covering the use of radio telephones in railroad operations. For safety, FRA requires that radio commands or instructions received by train operators and other crew be written down and copies passed to other members of the crew before action is taken so that the crew is well informed on events. The form used to copy radio messages is not specified by FRA.

Issued in Washington, D.C. on April 23, 1984.

Jon H. Seymour,

Deputy Assistant Secretary for Administration.

[FR Doc. 84–11715 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Advisory Circular 29–2, Change 1]

Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Availability of proposed new material to Advisory Circular (AC) 29–2, Certification of Transport Category Rotorcraft, and request for comments.

SUMMARY: Advisory Circular 29–2 was issued on May 20, 1983, and at that time many of the paragraphs were shown as "Reserved." The material to be added will be identified as "Change 1" and will consist of 56 new paragraphs that were formerly reserved and revised material for two existing paragraphs.

DATE: Commenters must identify File AC 29–2, Change 1, and comments must be received on or before June 29, 1984.

ADDRESS: Send all comments on the AC 29–2, Change 1, draft to: Federal Aviation Administration, ATTN: Helicopter Policy and Procedures Staff, ASW–110, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Mr. John Swihart, Aerospace Engineer, Helicopter Policy and Procedures Staff, ASW–110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 877–2585 or FTS 734–2585.

SUPPLEMENTARY INFORMATION: Draft copies of AC 29–2, Change 1, are being mailed to all known affected industry and government entities, both domestic and foreign. Previous comments made by other FAA Aircraft Certification Offices were considered in developing the draft in its present form. Any interested person not receiving a copy of this draft and desiring one should contact the person named under **"FOR FURTHER INFORMATION CONTACT."**

Comments Invited

Interested persons are invited to comment on draft AC 29–2, Change 1. Comments received on the draft may be inspected at the offices of the Helicopter Policy and Procedures Staff, (ASW–110), 2nd Floor, Building 3A, Room 235, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, between 8 a.m. and 4:30 p.m. on weekdays, except Federal holidays.

A public meeting will be held in the FAA Southwest Region Office Training Room, ground floor, Building 3A, 4400 Blue Mound Road, Forth Worth, Texas, on May 31, 1984, at 8:30 a.m. for the purpose of allowing interested persons to verbally emphasize their written comments.

Issued in Fort Worth, Texas, on April 13, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84–11622 Filed 4–30–84; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Jefferson County, Arkansas

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 Jefferson County, Arkansas.

FOR FURTHER INFORMATION CONTACT: E. C. Lydick, District Engineer, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas 72201, Telephone: (501) 378–5300; or Bill Richardson, Senior Environmental Scientist, Environmental Division, Arkansas State Highway and Transportation Department, P.O. Box 2261, Little Rock, Arkansas 72203, Telephone: (501) 569–2281.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department, will prepare an environmental impact statement (EIS) on a proposal to construct a freeway to serve western, southern, and central Pine Bluff, Jefferson County, Arkansas. The Pine Bluff Study Area is projected to have a population of 95,482 by the year 2000. Most of the growth is expected to occur in White Hall and to the south and west of Pine Bluff. The industrial parks and port to the northwest and northeast of Pine Bluff; the major commercial centers downtown, on U.S. 65B, on S.H. 15 and on U.S. 79; and the existing and projected locations of residential land create a pattern of frequent crosstown trips within Pine Bluff. The existing street system is inadequate to handle expected traffic, and U.S. 65 is the only east-west through route in the area.

Alternates to be considered are: (1) The "Do-Nothing" Alternate where no improvements are made to existing streets and highways, and new routes are constructed as development dictates; (2) the "Reconstruction of Existing Streets" Alternate—bringing the street and highway system up to the

standards presented in the city and county master street plans; (3) the "New Location" Alternate—a future facility that can carry anticipated traffic at a reasonable level of service (more than one alignment on the southern part of the city will be studied); and (4) a mass transit alternate.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, state, and local agencies and to private organizations, including conservation groups and groups and individuals who have voiced opposition to the project in the past and to major Arkansas newspapers. Also, a series of public involvement sessions were held in a mobile trailer situated directly in the areas to be affected. In addition, a public hearing will be held.

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: April 24, 1984.

Edward C. Lydick,

District Engineer, Little Rock, Arkansas.

[FR Doc. 84-11741 Filed 4-30-84; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP84-4; Notice 1]

Firestone Tire & Rubber Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Firestone Tire & Rubber Co. of Akron, Ohio has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C., 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Section 54.3(e) of Standard No. 109 requires that the actual number of plies in a tire be indicated on both sidewalls. Firestone has manufactured approximately 900 G78-15 Deluxe Champion 4 ply polyester tires with stamping on both sides indicating the tires have only three plies. Firestone argues that this is an inconsequential noncompliance because the legend "Load Range B" will indicate to prospective purchasers that the tire is one of four plies. Further, Tire & Rim Association load and inflation tables indicate the same load-carrying capacities for all ply ratings. Retreaders will be guided by Load Range B markings and will not be confused by the erroneous stampings. Finally, Firestone does not produce a three-ply tire and the tires are not likely to be sold as anything but what they are.

Interested persons are invited to submit written data, views and arguments on the petition of Firestone Tire & Rubber Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

Comment closing date: May 31, 1984.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 25, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-11706 Filed 4-30-84; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in March 1984. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2582-P	DOT-E 2582	GENUS, San Marcos, CA	49 CFR 175.3, Part 173, Subparts D, F, G.	To become a party to Exemption 2582. (Modes 1, 2, 3, 4.)
2587-X	DOT-E 2587	Dension, Inc., Fredonia, KA	49 CFR 173.315(a)(1)	To authorize shipment of liquid oxygen in non-DOT specification cargo tanks. (Mode 1.)
2787-X	DOT-E 2787	U.S. Department of Defense, Washington, DC.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable compressed gas, in non-DOT specification pressure vessels equipped with a regulating valve, a pressure relief valve, and a squibb actuated valve. (Modes 1, 2, 3, 4.)
3302-X	DOT-E 3302	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.302, 175.3	To authorize use of non-DOT specification sampling bottles (cylinders), for transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3648-X	DOT-E 3648	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize transport of certain cryogenic liquids, in non-DOT specification vacuum insulated cargo tanks. (Mode 1.)
3996-x	DOT-E 3996	Stauffer Chemical Company, Westport, CT.	49 CFR 173.188	To authorize shipment of phosphoric anhydride in DOT Specification 6K metal drums. (Modes, 1, 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4453-X	DOT-E 4453	Wampum Hardware Company, New Galilee, PA.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4453-X	DOT-E 4453	Kentucky Powder Company, Lexington, KY.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
5600-P	DOT-E 5600	GENUS, San Marcos, CA	49 CFR 175.3, Part 173	To become a party to Exemption 5600. (Modes 1, 2, 4.)
5749-X	DOT-E 5749	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.315(a)	To authorize use of an insulated nickel steel DOT Specification MC-331 cargo tank, for transportation of a certain flammable gas. (Mode 1.)
5861-X	DOT-E 5861	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel other than prescribed in the regulations, in the construction of a cylinder patterned after the DOT Specification 4DS cylinders, for transportation of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
5951-X	DOT-E 5951	Dixie Chemical Company, Houston, TX	49 CFR 173.314(c)	To authorize transport of liquefied nonflammable compressed gases in DOT Specification 106 type tanks. (Modes 1, 2.)
5967-X	DOT-E 5967	Rocket Research Corp., Redmond, WA	49 CFR 173.304(a)(2), 175.3, 178.44	To authorize use of non-DOT specification cylinders, for transportation of nonflammable gases. (Modes 1, 2, 4, 5.)
6016-X	DOT-E 6016	Welding & Cutting Supply Co., Cleveland, OH.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Harvey Company, Greensburg, PA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6064-X	DOT-E 6064	Sodyeco, Inc., Charlotte, NC	49 CFR 173.65(e), 178.24-4(a)	To authorize transport of a high explosive in DOT Specification 21P fiber drum having an inside polyethylene container similar to DOT Specification 2U with certain exceptions. (Mode 1.)
6296-P	DOT-E 6296	Uniroyal Chemcial, Bethany, CT	49 CFR 173.377(g)	To become a party to Exemption 6296. (Modes 1, 2.)
6325-X	DOT-E 6325	Atlas Powder Company, Dallas, TX	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6325-X	DOT-E 6325	Mining Services International Corp., Salt Lake City, UT.	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6453-X	DOT-E 6453	General Motors Corp., Warren, MI	49 CFR 173.302(a)(1), 175.3	To authorize use of a non-refillable, welded steel cylinder built in compliance with DOT Specification 39 with certain exceptions, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6501-X	DOT-E 6501	GOEX, Inc., Cleburne, TX	49 CFR 173.62	To authorize transport of liquid high explosives in DOT Specification 6D steel drums overpacked with a DOT Specification 2SL liner. (Mode 1.)
6563-X	DOT-E 6563	Safety Medical Corp., Sharon Hill, PA	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases, in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)
6563-X	DOT-E 6563	S.L.O. Health Products, Inc., Baywood Park, CA.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases, in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)
6602-X	DOT-E 6602	Dow Chemical Co., Midland, MI	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To authorize use of DOT Specification MC-331 cargo tanks and DOT Specification 105A500W or 106A500X tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2.)
6602-X	DOT-E 6602	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.245(a), 173-314(c), 173.315(a)(1).	To authorize use of DOT Specification MC-331 cargo tanks and DOT Specification 105A500W or 106A500X tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2.)
6602-X	DOT-E 6602	Jones Chemicals, Incorporated, Caledonia, NY.	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To authorize use of DOT Specification MC-331 cargo tanks and DOT Specification 105A500W or 106A500X tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2.)
6602-X	DOT-E 6602	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To authorize use of DOT Specification MC-331 cargo tanks and DOT Specification 105A500W or 106A500X tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2.)
6607-X	DOT-E 6607	Bio-Lab, Incorporated, Conyers, GA	49 CFR 173.217(a)	To authorize a preformed expanded polystyrene molding, or thermoformed polyvinyl chloride tray, as inner packaging, overpacked in a fiberboard box, for transportation of a certain oxidizing material. (Modes 1, 2, 3.)
6614-P	DOT-E 6614	Willard Products, Redwood City, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614-X	DOT-E 6614	Hill Brothers Chemical Company Tucson, AZ.	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6626-P	DOT-E 6626	Bishop's Welding Supply, Tampa, FL	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), 175.3.	To become a party to Exemption 6626. (Modes 1, 2, 3, 4, 5.)
6637-X	DOT-E 6637	Russell-Stanley Corp., Woodbridge, NJ	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(6), 173.272(i)(9), 173.276(a)(10), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b), 178.19.	To authorize manufacture, marking and sale of non-DOT specification polyethylene drums, for shipment of organic peroxides, oxidizers, flammable, corrosive and Class B poisonous liquids. (Modes 1, 2, 3.)
6637-X	DOT-E 6637	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.276(a)(10), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b), 178.19.	To authorize manufacture, marking and sale of non-DOT specification polyethylene drums, for shipment of organic peroxides, oxidizers, flammable, corrosive and Class B poisonous liquids. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6743-X	DOT-E 6743	Atlas Powder Company, Dallas, TX	49 CFR 173.114a(h)(3), 173.182	To authorize shipment of an oxidizing material and a blasting agent in DOT Specification 56 or 57 portable tanks. (Mode 1.)
6746-X	DOT-E 6746	The Firestone Tire and Rubber Company, Akron, OH.	49 CFR 173.315(a)(1)	To authorize shipment of anhydrous ammonia in portable tanks built, marked and maintained in compliance with the DOT Specification MC-331 cargo tank. (Modes 1, 3.)
6755-X	DOT-E 6755	Lincoln Welding Supply Company, Lincoln, NE.	49 CFR 173.315(a)(1)	To authorize shipment of liquid argon, nitrogen, and oxygen in non-DOT specification truck-mountable cargo tanks. (Mode 1.)
6762-P	DOT-E 6762	Dearborn Aqua-Serv of Lansing, Lansing, MI.	49 CFR 173.286(b)(2), 175.2	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6787-X	DOT-E 6787	Russell-Stanley Corp., Woodbridge, NJ	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b).	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene drums, for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, 3.)
6787-X	DOT-E 6787	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b).	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene drums, for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, 3.)
6883-X	DOT-E 6883	Hedwin Corporation, Baltimore, MD	49 CFR 173.119, 173.154, 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.256(a), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(g), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.288, 173.289(a)(1), 173.292(a)(1), 173.346(e), 178.19.	To authorize manufacture, marking and sale of non-DOT specification molded polyethylene containers, for shipment of oxidizers, poison B, corrosive liquids, organic peroxides and flammable liquids. (Modes 1, 2, 3.)
6919-X	DOT-E 6919	Northern Petrochemical Company, Morris, IL.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification insulated cargo tank for shipment of certain flammable gases. (Mode 1.)
6921-X	DOT-E 6921	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification portable tank, for transportation of liquefied helium. (Modes 1, 3.)
6926-X	DOT-E 6434	Rhone-Poulenc Inc., Monmounth Junction, NJ.	49 CFR 173.377(i)(1)	To authorize use of non-DOT specification paper, bags, for transportation of a poisonous B solid material. (Modes 1, 2.)
6984-X	DOT-E 6984	Austin Powder Company, Cleveland, OH	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubes, overpacked in an IME Standard 22 container. (Mode 1.)
6984-X	DOT-E 6984	Atlas Powder Company, Dallas, TX	49 CFR 173.103(a), 173.66(g), 177.635(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubes, overpacked in an IME Standard 22 container. (Mode 1.)
7011-X	DOT-E 7011	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.239(a), 173.245b(a)(5)	To authorize transport of caustic soda beads, a corrosive solid and ammonium perchlorate in non-DOT specification polyethylene containers not exceeding 57-gallon capacity. (Modes 1, 2, 3.)
7060-X	DOT-E 7060	M. T. Associates, Inc., Warwick, RI	49 CFR 175.702(b), 175.75(a)(3)(ii)	To become a party of Exemption 7060. (Mode 4.)
7073-X	DOT-E 7073	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354(a)(6)	To authorize use of non-DOT specification portable tanks for transportation of a Class B poisonous liquid. (Modes 1, 2, 3.)
7409-X	DOT-E 7409	Puerto Rico Maritime Shipping Authority, San Juan, Puerto Rico.	49 CFR 173.118a, 173.125, 176,340	To authorize use of a modified DOT specification cargo tank, for transportation of flammable combustible liquids. (Mode 3.)
7438-X	DOT-E 7438	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354(a)(5)	To authorize use of non-DOT specification cargo tanks, for transportation of a Class B poisonous liquid. (Mode 1.)
7548-X	DOT-E 7548	U.S. Department of Defense, Washington, DC.	49 CFR; 46 CFR 146.29-100	To authorize stowage of explosives on deck of vessel, over the square of the hatch. (Mode 3.)
7595-X	DOT-E7595	American Cyanamid Co., Wayne, NJ	49 CFR 173.358, 173.359	To authorize transport of certain poison B liquids in DOT Specification MC-312 cargo tanks. (Mode 1.)
7598-X	DOT-E 7598	Pratt & Whitney Aircraft, Group, East Hartford, CT.	49 CFR 173.154(a), 173.182(b), 173.194(a), 173.234(a), 173.245(a), 173.249(a), 173.263) 173.364, 173.266, 173.268, 173.272, 173.283, 173.287, 173.352, 173.370, 178.255-1(a).	To authorize shipment of certain corrosive materials, oxidizers and Class B poisons in a portable tank complying with DOT Specification 60, except the ends are bolted instead of welded. (Mode 1.)
7616-X	DOT-7616	The Atchison, Topeka and Santa Fe Railway Company, Chicago, IL.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7651-X	DOT-E 7651	Austin Powder Company, Cleveland, OH	49 CFR 173.93(e), 177.834(L)(1)	To authorize shipment of a Class B liquid propellant explosive, in non-DOT specification sealedtanks. (Mode 1.)
7654-X	DOT-E7654	Texas Eastman Company, Longview, TX	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box, for transportation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7654	J. T. Baker Chemical Co., Phillipsburg, NJ	49 CFR 173.119(f)	To authorized use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box, for transportation of a flammable liquid. (Modes 1, 2.)
7674-X	DOT-E 7674	U.S. Department of Defense, Washington, DC.	49 CFR 174.104(a)	To authorize shipment of certain Class A explosives on flat-cars and open-top rail cars. (Mode 2.)
7737-X	DOT-E 7737	Parker Hannifin Corporation, Eastlake, OH.	49 CFR 173.119(a), 173.119(b), 173.119(f), 173.124(a), 173.148(a), 173.302(a), 173.304(a), 173.304(d), 173.328, 173.332, 173.336, 173.337, 173.358, 175.3, 178.42.	To authorize manufacture, marking and sale of non-DOT specification seamless aluminum cylinders, for shipment of flammable gas, nonflammable gas, flammable liquid, or poison A. (Modes 1, 2, 3, 4.)
7770-X	DOT-E 7770	Fauvet-Girel, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, 3.)
7770-X	DOT-E 7770	Eurotainer, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport of anhydrous hydrogen fluoride or anyhdrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, 3.)
7803-X	DOT-E 7803	Plastican, Inc., Leominster, MA	49 CFR 178.19, Part 173, Subpart D, F	To authorize manufacture, marking and sale of non-DOT specification removable head polyethylene drums, for shipment of corrosive liquids and flammable liquids. (Modes 1, 2, 3.)
7834-X	DOT-E 7834	Magnaflux Corporation, Chicago, IL	49 CFR 173.306(b)(4), 175.3	To authorize transport of nonliquefied sulfur hexafluoride in certain X-ray machines, overpacked in strong wooden or fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7835-P	DOT-E 7835	Scott Specialty Gases, Plumsteadville, PA	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7887-X	DOT-E 7887	Crown Rocket Technology, Mountlake Terrace, WA.	49 CFR 172.101, 173.111, 175.3, Part 107 Appendix B.	To authorize transport of certain toy propellant devices and igniters, in DOT Specifications 15A, 15B, 16A or 19A wooden boxes, or DOT Specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7898-X	DOT-E 7898	U.S. Department of Defense, Washington, DC.	49 CFR 173.145, 173.31(a)(4), 179.200-7(d).	To authorize transport of methylhydrazine in DOT Specification 103A-ALW or 103CW tank cars. (Mode 2.)
7915-X	DOT-E 7915	Olin Corporation, East Alton, IL	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7915-X	DOT-E 7915	U.S. Department of Defense, Washington, DC.	49 CFR 173.93(b)	To renew and to expand on restricted points of transportation. (Mode 1.)
7915-X	DOT-E 7915	U.S. Department of Defense, Washington, DC.	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7928-X	DOT-E 7928	Alaska Marine Highway System, State of Alaska, Juneau, AK.	49 CFR 172.101, 176.905(L)	To authorize stowage of certain hazardous materials on the vehicle deck of passenger vessels. (Mode 3.)
7943-X	DOT-E 7943	GPS Industries, City of Industry, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7945-X	DOT-E 7945	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel other than that prescribed in the regulations, in the construction of a cylinder patterned after DOT Specification 4DS cylinders, for shipment of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
7954-X	DOT-E 7954	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.504, 173.301(d)(2), 173.302(a)(3).	To renew and to modify provision for pressure relief device and ball valve configurations. (Mode 1.)
7972-X	DOT-E 7972	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.504	To authorize transport of limited quantities of explosive in a special shipping container without placarding the vehicle. (Mode 1.)
8008-X	DOT-E 8008	Wheaton Aerosols Co., Mays Landing, NJ	49 CFR 173.1200, 173.305, 173.306(a), 175.3.	To authorize manufacture, marking and sale of non-DOT specification aerosol container consisting of a glass bottle externally coated with plastic, for shipment of compressed gases. (Modes 1, 2, 3, 4.)
8009-P	DOT-E 8009	Natural Gas Transmission, Inc., Guthrie, OK.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To become a party to Exemption 8009. (Mode 1.)
8081-X	DOT-E 8081	National Aeronautics and Space Administration, Washington, DC.	49 CFR 172.101 Column 6(b), 175.30(a)(1).	To authorize the transport of a Class B rocket motor having a gross shipping weight not exceeding 3000 lbs. by cargo-only aircraft. (Mode 4.)
8129-P	DOT-E 8129	Burroughs Wellcome Company, Greenville, NC.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Stauffer Chemical Company, Westport, CT.	do	Do.
8129-P	DOT-E 8129	Hopkins Agricultural Chemical Company, Madison, WI.	do	Do.
8129-P	DOT-E 8129	The University of Wyoming, Laramie, WY	do	Do.
8129-P	DOT-E 8129	Environmental Response Inc., Hendersonville, TN.	do	Do.
8129-P	DOT-E 8129	Chemical Pollution Control, Inc., Bay Shore, NY.	do	Do.
8129-P	DOT-E 8129	Chemical Waste Disposal Corp., Astoria, NY.	do	Do.
8129-P	DOT-E 8129	Drug & Laboratory Disposal, Inc., Plainwell, MI.	do	Do.
8129-P	DOT-E 8129	Cornell University, Ithaca, NY	do	Do.
8129-P	DOT-E 8129	Synergen, Inc., Boulder, CO	do	Do.
8129-P	DOT-E 8129	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	do	Do.
8129-P	DOT-E 8129	University of Colorado at Colorado Springs, Colorado Springs, CO.	do	Do.
8129-P	DOT-E 8129	Industrial Waste Engineering, Wilmington, CA.	do	Do.
8129-P	DOT-E 8129	Lawrence University, Appleton, WI	do	Do.
8141-X	DOT-E 8141	The Boeing Co., Seattle, WA	49 CFR 172.101, 173.206, 173.247	To modify the bolt configuration used to secure the lithium battery overpack during transportation. (Modes 1, 3.)
8153-X	DOT-E 8153	Browning-Ferris Industries Chemical Services Inc., Houston, TX.	49 CFR 173.119(a), 173.119(m), 173.245(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC-307/312 except for bottom outlet valve variations, for transportation of certain waste flammable liquids and corrosive materials. (Mode 1.)
8156-X	DOT-E 8156	Union Carbide Corporation, Danbury, CT	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfied in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8156-X	DOT-E 8156	Liquid Carbonic Corporation, Chicago, IL	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfied in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8156-X	DOT-E 8156	Scientific Gas Products, Inc., South Plainfield, NJ.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfied in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8162-X	DOT-E 8162	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8180-X	DOT-E 8180	Dow Corning Corporation, Midland, MI	49 CFR 173.119(m), 173.136(a)(3), 173.247(a)(7).	To authorize use of non-DOT specification steel drums for shipment of a corrosive material and a flammable liquid. (Modes 1, 2.)
8299-X	DOT-E 8299	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT specification pressure vessels, for transportation of a compressed gas. (Modes 1, 2, 4, 5.)
8390-X	DOT-E 8390	Micro Image, Inc., Orange, CT	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8394-X	DOT-E 8394	Whirlpool Corporation, La Porte, IN	49 CFR 100-177	To authorize transport of certain Thermostatic elements containing small quantities of sodium potassium alloy, liquid packed in a strong fiberboard box. (Modes 1, 2, 3, 4, 5.)
8427-X	DOT-E 8427	U.S. Department of Defense, Washington, D.C.	49 CFR 173.276	To authorize use of a stainless steel DOT specification seamless 3A or 3E cylinder, for shipment of a flammable liquid. (Mode 4.)
8445-P	DOT-E 8445	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8445-P	DOT-E 8445	University of Minnesota, Minneapolis, MN	49 CFR 1733, Subpart D, E, F, & H	To become a party to Exemption 8845. (Mode 1.)
8445-P	DOT-E 8445	Rollins Environmental Services, Inc., Bridgeport, NJ.	49 CFR 1733, Subpart D, E, F, & H	To become a party to Exemption 8845. (Mode 1.)
8453-X	DOT-E 8453	Atlas Powder Company, Dallas, TX	49 CFR 173.114a	To authorize use of non-DOT specification cargo tanks and DOT Specification MC-306, MC-307, or MC-312 stainless steel cargo tanks, to transport blasting agent. (Mode 1.)
8468-X	DOT-E 8468	Hedwin Corporation, Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.288, 173.346.	To authorize manufacture, marking and sale of DOT Specification 34 drums of 4, 5 and 6-gallon capacity, for shipment of certain flammable, poison B, corrosive liquids and organic peroxides. (Modes 1, 2, 3, 5.)
8480-P	DOT-E 8480	Sears, Roebuck and Co., Chicago, IL	49 CFR 173.24(a)(1), 175.3, Parts 172 & 177.	To become a party to Exemption 8480. (Modes 1, 2, 3.)
8499-X	DOT-E 8499	Hedwin Corporation, Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.288, 173.346.	To authorize manufacture, marking and sale of DOT Specificaiton 34 polyethylene drums, for shipment of certain flammable, poison B, corrosive liquids and oxidizers. (Modes 1, 2, 3, 5.)
8522-X	DOT-E 8522	Taylored Foam Inc., Oakland, CA	49 CFR 177.839(a)(b), 178.150, Part 173, Subpart F.	To change company name from Foamco to Taylored Foam, Inc. and to authorize an increase in the depth of each cell in the polystyrene shipping case. (Modes 1, 2, 3.)
8554-P	DOT-E 8554	Mining Services International, Salt Lake City, UT.	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Modes 1.)
8627-X	DOT-E 8627	Petrolite Corporation, St. Louis, MO	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
8627-X	DOT-E 8627	Exxon Chemical Company, Houston, TX	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
8627-X	DOT-E 8627	Chemlink Petroleum, Inc., Sand Springs, OK.	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
8718-X	DOT-E 8718	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full cylinders, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8751-X	DOT-E 8751	Delta Tech Service, Inc., Martinez, CA	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.263(a), 173.346(a), 178.340-7, 178.343-5.	To authorize use of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-312 with certain exceptions, for shipment of certain hazardous materials. (Mode 1.)
8779-X	DOT-E 8779	Acme Resin Corporation, Forest Park, IL	49 CFR 173.349	To authorize use of DOT Specification 57 portable tanks for shipment of poison B liquids. (Mode 1.)
8988-P	DOT-E 8988	GOEX, Inc., Cleburne, TX	49 CFR 172.101, 173.110, 173.80	To become a party to Exemption 8988. (Modes 1, 3).
8988-P	DOT-8988	Pengo Industries, Inc., Fort Worth, TX	49 CFR 172.101, 173.110, 173.80	To become a party to Exemption 8988. (Modes 1, 3.)
9064-X	DOT-E 9064	Corning Glass Works, Corning, NY	49 CFR 173.245, 173.271	To authorize titanium tetrachloride, classed as a corrosive material and to add water as an additional mode of transportation. (Modes 1, 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9077-N	DOT-E 9077	Central Vermont Railway, Inc., St. Albans, VT.	49 CFR Part 100-199	To authorize transport of railway track torpedoes and railway fusees in flagging kits constructed of 24 gauge galvanized steel. (Mode 1.)
9136-N	DOT-E 9136	Plasti-Drum Corporation, Lockport, IL	49 CFR 173.119, 173.221, 173.245b(a)(6), 173.271, 173.357(b), 178.19.	To authorize manufacture, marking and sale of DOT Specification 34 drums of up to 30 gallon capacity, for shipment of various poison B liquids, flammable liquids, organic peroxides, oxidizers and corrosive materials. (Modes 1, 2, 3.)
9146-N	DOT-E 9146	Blefa-Felser GmbH, Postfach, West Germany.	49 CFR 171.12(c), 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness, to be used in place of 20/18 gauge, 55-gallon capacity, DOT Specification 17E drums. (Modes 1, 2, 3.)
9154-N	DOT-E 9154	Bennett Industries, Peotone, IL	49 CFR 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of 19-gauge (one-millimeter) thickness, with corrugated top and bottom heads, and having double seamed chime construction, to be used in place of 20/18 gauge, 55-gallon capacity DOT Specification 17E drums. (Modes 1, 2, 3.)
9164-N	DOT-E 9164	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.119(b)(6)	To authorize manufacture, marking and sale of a non-DOT specification steel portable tank of 345 gallon capacity, with removable head, for shipment of waste paint and waste paint sludge. (Modes 1, 2.)
9208-N	DOT-E 9208	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 173.114a	To authorize transport of an insensitive high explosive and munitions containing explosive classed as a blasting agent. (Modes 1, 2, 3.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9222-X	DOT-E9222	Caldwell System, Inc., Lenoir, NC	49 CFR 173.119(b), 173.154	To authorize use of non-DOT specification metal tanks, for transportation of a flammable liquid. (Mode 1.)
EE 9222-P	DOT-E9222	Willms Trucking Company, Inc., Charleston Heights, SC.	49 CFR 173.119(b), 173.154	To become a party to Exemption 9222. (Mode 1.)
EE 9236-N	DOT-E9236	Korean Airlines, Los Angeles, CA	49 CFR 172.101(6)(b),, 175.320(a)	To authorize transport of Class A, B and C explosives aboard aircraft. (Mode 4.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8129-P	Kerr-McGee Chemical Corporation, Trona, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party of Exemption 8129. (Mode 1.)

Denials

9102-N—Request by U.S. Department of Energy, Washington, DC to authorize shipment of up to 200 grams of uranium metal, pyrophoric, by cargo-only aircraft denied March 30, 1984.

9173-N—Request by British Caledonian Airways Limited, West Sussex, England to authorize carriage of various hazardous materials and nonflammable compressed gases in inaccessible cargo compartments without quantity limitations denied March 22, 1984.

Issued in Washington, DC, on April 23, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-11619 Filed 4-30-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Inventory of Commercial Activities and Schedule of A-76 Reviews

Correction

In FR Doc. 84-10845, beginning on page 17113, in the issue of Monday, April 23, 1984, make the following corrections:

1. On page 17114, in the first column, under the heading "Projected fiscal year for review", in the sixth line from the bottom "1997" should read "1987".

2. On page 17115, in the second column, under the heading "Projected fiscal year for review", in the twenty-third line from the top "1985" should read "1984".

3. Also further down in the same column, in the entry for "District Office, Omaha, NE" between the fourth and fifth items, insert the line "OTC forms distribution . . . 1987".

4. Also on page 17115, in the second column in the entry "District Office, St. Paul, MN" in the last two items insert "19" in front of the "84".

5. Also in the second column, in the entry for "Service Center, Kansas City, MO", under the heading "Projected fiscal year for review" the fourth, fifth, and sixth date should read "1987, 1986, 1987" respectfully.

6. On page 17115, in the second column, the following text should be inserted before the fourth line from the bottom of the column.

Location and type of activity	Projected fiscal year for review
Service Center, Kansas City, MO (cont'd):	
Mail room	1985
Word processing	1985
Centralized files	1985
Library	1987
Machine services	1984
Document destruction	1984
Southwest Regional Office, Dallas TX:	
Space layout and drafting	1986
Bulk storage	1986
Inventory and supply	1986
Mail room	1986
Library services	1987
Financial audit	1987
Courier service	1987
District Office, Austin, TX:	
ADP services	1987
Bulk storage	1986
Inventory and supply	1986
OTC forms distribution	1987
Teller unit	1986
Mail room	1985
Valuation and appraisal	1985
Financial audit	1985
District Office, Dallas TX:	
ADP services	1985
Space layout and drafting	1985
Bulk storage	1986
Inventory and supply	1986
OTC forms distribution	1986
Motor vehicle operation	1987
Teller unit	1987
Microfilming	1984
Mail room	1987
Centralized files	1986
Records search	1986
Financial audit	1987
Document destruction	1984
Telecommunication systems design	1986
ID media control	1987
District Office, Denver CO:	
ADP services	1986
Space layout and drafting	1985
Bulk storage	1985
Inventory and supply	1986
OTC forms distribution	1986
Motor vehicle operation	1985
Teller unit	1985
Microfilming	1986
Mail room	1985
Word processing	1986
Centralized files	1986
Records search	1987
Library services	1987
Valuation/appraisal	1987
District Office, Houston TX:	
ADP services	1987
Space layout and drafting	1986
Bulk storage	1987
Inventory and supply	1987
OTC forms distribution	1986
Teller unit	1986
Mail room	1987
Centralized files	1986
Library services	1987
Financial audit	1987
District Office, Little Rock AR:	
ADP services	1986
Space layout and drafting	1986
Bulk storage	1987
Inventory and supply	1985
OTC forms distribution	1986
Labor services	1987
Teller unit	1986
Mail room	1986
Library services	1987
Timekeeping	1987

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 85
Tuesday, May 1, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Wednesday, May 30, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11780 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 30, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTER TO BE CONSIDERED: Briefing on the National Futures Association.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11781 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 25, 1984.

PLACE: 2033 K. Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11782 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Friday, May 25, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Budget Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11783 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Monday, May 21, 1984.

PLACE: 2033 K Street, NW.,-Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTER TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11784 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 18, 1984.

PLACE: 2033 K STREET, NW., WASHINGTON, D.C. 8TH FLOOR CONFERENCE ROOM.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11785 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

7

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 11, 1984.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11786 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

8

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 4, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84–11787 Filed 4–27–84; 11:51 am]
BILLING CODE 6351–01–M

9

FEDERAL COMMUNICATIONS COMMISSION

April 26, 1984.

Deletion of Agenda Item From April 26th Open Meeting.

The following item has been deleted at the request of the Mass Media Bureau from the list of agenda items scheduled for consideration at the April 26, 1984, Open Meeting and previously listed in the Commission's Notice of April 19, 1984.

Agenda, Item No. and Subject

Mass Media—6—Title: Applications for License and for Consent to Transfer Control of Station WEVV–TV, Evansville, IN. Summary: The Commission will consider whether to grant these applications.

Issued: April 26, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–11824 Filed 4–27–84; 3:25 pm]

BILLING CODE 6712–01–M

10

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 25, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, May 2, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:.

1. U.S. Steel Mining Company, Docket No. PENN 82–328. (Issues include whether the judge properly concluded that, in assessing a penalty, he was not bound by MSHA's penalty assessment regulation at 30 C.F.R. § 100.4).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84–11776 Filed 4–27–84; 10:57 am]

BILLING CODE 6735–01–M

11

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 7, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computer equipment within the Federal Reserve System.
2. Proposed acquisition of real property by a Federal Reserve Bank.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) inyolving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: April 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–11835 Filed 4–27–84; 3:47 pm]

BILLING CODE 6210–01–M

12

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 17, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr., (202) 634–4015.

Dated: April 27, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84–11768 Filed 4–27–84; 10:57 am]

BILLING CODE 7600–01–M

federal register

Tuesday
May 1, 1984

Part II

Department of Agriculture

Agricultural Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations at 7 CFR Part 725 to implement the provisions of the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98–180, enacted November 29, 1983) with respect to the flue-cured tobacco acreage allotment and marketing quota program. This proposed rule places restrictions on the lease and transfer of acreage allotments and marketing quotas for the 1985 and 1986 crops of flue-cured tobacco; eliminates lease and transfer of acreage allotments and marketing quotas beginning with the 1987 crop of flue-cured tobacco; makes certain provisions relating to forfeiture of acreage allotments and marketing quotas less restrictive; and adds new provisions which will require the sale or forfeiture of acreage allotments and marketing quotas if, during at least two years of any three year period, flue-cured tobacco is not planted or considered planted on the farm for which such allotments and quotas are established.

DATE: Comments on the proposed rule must be received by May 31, 1984 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building, USDA.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

This proposed action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This proposed rule is necessary to implement the provisions of the Dairy and Tobacco Adjustment Act of 1983 which amended the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act").

The major provisions of this proposed rule are as follows:

(1) *Lease and transfer of flue-cured tobacco acreage allotment and marketing quotas.* Section 316(a)(1) of the 1938 Act provides that the lease and transfer of flue-cured tobacco acreage allotments and marketing quotas shall be eliminated beginning with the 1987 crop. Section 316(a)(1) further provides that, with respect to the 1985 and 1986 crops only, the lease and transfer of such allotments and quotas would be permitted if the lessor and lessee each certify that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form, before the marketing of tobacco produced under the lease. A false certification by the lessee would make such lease and transfer null and void and could result in the assessment of marketing penalties with respect to flue-cured tobacco marketed by the lessee. A false certification by the lessor would result in a reduction of the flue-cured tobacco acreage allotment and marketing quota established for the lessor's farm for the next marketing year. These provisions may be found in 7 CFR 725.72 (a), (g), and (r) of this proposed rule.

(2) *Tobacco not planted or considered planted in 1983 and subsequent years.* Section 317(k) of the 1938 Act provides that, beginning with the 1986 crop, the owner of a farm shall forfeit after February 15 of the applicable year any flue-cured tobacco acreage allotment and marketing quota established for the farm if flue-cured tobacco was not planted or considered planted on such farm during at least two of the three preceding years. Any flue-cured tobacco acreage allotment and marketing quota which is established for the farm and which is leased and transferred would be considered planted on such farm. This provision may be found in 7 CFR 725.74(e) of this proposed rule.

(3) *Installment payments for purchased flue-cured tobacco acreage allotments and marketing quotas.* Section 316(a)(1) of the 1938 Act requires that the seller of flue-cured tobacco acreage allotment and marketing quota grant to the buyer an option to make payment for such allotment and quota in equal annual installments payable each fall for a period not to exceed five years from the year in which the sale is made. This proposed rule would require that the buyer of an allotment and quota certify that the seller has afforded such an option to the buyer. This proposed rule would not prevent the seller of flue-cured tobacco acreage allotment and marketing quota from: (a) Negotiating with more than one prospective buyer; (b) selling such allotment and quota to any eligible buyer selected by the seller; or (c) selling such allotment and quota for a single payment. Under the proposed rule, the flue-cured tobacco acreage allotment and marketing quota purchased under an installment plan would remain with the farm to which such allotment and quota is transferred should the buyer fail to make full payment to the seller for the allotment and quota. Although the proposed rule also provides that such allotment and quota may not be used as collateral in an installment sale, a seller of an allotment and quota would be able to include other provisions in the agreement of sale to protect the seller's interest if the buyer fails to make full payment. These provisions may be found in 7 CFR 725.72 (d)(6)(iv) and (t) of this proposed rule.

(4) *Forfeiture of flue-cured tobacco allotments and quotas by persons which are not significantly involved in the management or use of land for agricultural purposes.* Section 316A of the 1938 Act extends from December 1, 1983, to December 1, 1984, the date by which certain persons owning a farm for which a flue-cured tobacco acreage allotment and marketing quota have been established must sell or forfeit such allotment and quota if such

persons are not significantly involved in the management or use of land for agricultural purposes. In accordance with section 316A of the 1938 Act, this proposed rule excludes the following persons from this forfeiture provision: (a) Any individual; (b) any partnership; (c) any family farm corporation; (d) any trust, estate, or similar fiduciary account with respect to which 50 percent or more of the beneficial interest is in one or more individual; and (e) any educational institution that uses a flue-cured tobacco allotment and quota for instructional or demonstrational purposes. This proposed rule defines a family farm corporation as a corporation for which: (a) Not less than 50 percent of the stock is owned by an individual and certain family members of the individual, and (b) one or more of these individuals participates in the direct management of the day to day farming operations of the corporation. These provisions may be found in 7 CFR 725.51(l–1) and 725.74(b) of this proposed rule.

Other provisions of this proposed rule are as follows:

(1) *Continuing nature of forfeiture provisions.* This proposed rule amends 7 CFR 725.74 to clarify the continuing nature of the forfeiture provisions. To prevent forfeiture in any year, the person owning a farm for which a flue-cured tobacco acreage allotment and marketing quota are established must continually be in compliance with the provisions of 7 CFR 725.74.

(2) *Considered planted credit.* This proposed rule removes 7 CFR 725.51 (e–1)(2)(iv). The effect of this change is to provide that considered planted credit will not be assigned to a farm for purposes of retaining the flue-cured tobacco acreage allotment when diversion credit is earned for underplanting the tobacco acreage allotment and devoting such underplanted acreage to an approved conservation use. If there are any outstanding long-term conservation contracts which have been entered into by the Department under which planted and considered planted credit has been guaranteed for the length of the contract, the Department will honor such contractual provisions to the extent they are in accordance with existing law. 7 CFR 719.10(e), Preservation of cropland and allotment acreage, would be amended to conform to the proposed change. Beginning with the 1986 crop, the flue-cured tobacco acreage allotment and marketing quota shall be forfeited after February 15 of the applicable crop year if tobacco has not been planted or considered planted on the farm in at least two of the preceding three years. This proposed change would aid in the utilization of tobacco allotments and quotas by active tobacco producers.

(3) *Community average yield.* Section 317(e) of the 1938 Act was amended to remove the phrase "and shall not exceed the community average yield". In the proposed rule, 7 CFR 725.59(b) is amended to reflect this statutory change.

(4) *Witnessing signatures.* For several years prior to the 1983 crop, the program regulations required that an ASCS employee witness the signatures of the lessor and lessee if there was a lease and transfer of flue-cured tobacco quotas from the lessor's farm to the lessee's farm. This requirement was instituted to prevent third party involvement in leasing arrangements. The requirement was discontinued for the 1983 crop because section 316(a)(2)(B) and (c) of the 1938 Act provided that the lessor and lessee must certify that no agreements or arrangements in connection with the making of the lease were made except between the lessor and the lessee. Section 316(c) of the 1938 Act has been amended to remove the requirement that a certification be filed by the lessor and lessee with respect to a lease and transfer of the 1984 crop of flue-cured tobacco. Thus, the proposed rule in 7 CFR 725.72(e)(2)(iii) provides for reinstating the previous requirement that an ASC committeeman or an ASCS employee witness the signatures of the lessor and the lessee.

Since 1984 planting decision must be made immediately by flue-cured tobacco producers, this rule must be implemented as soon as possible. Therefore, all comments must be received by May 31, 1984 in order to be considered.

List of Subjects in 7 CFR Part 725

Acreage allotment, Marketing quota, Report requirements, Tobacco.

Proposed Rule

PART 725—[AMENDED]

Accordingly, 7 CFR Part 725 is amended as follows:

1. The authority citation reads:

Authority: Sec. 301, 313, 314, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38 as amended, 47, as amended, 48, as amended, 75 Stat. 469 as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314b, 1314b–1, 1314c, 1363, 1372–75, 1377, 1378, sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

2. Section 725.51 is amended by removing paragraph (e–1)(2)(iv), adding new paragraph (l–1), and revising the introductory sentence in paragraph (jj–1) to read as follows:

§ 725.51 Definitions.

* * * * *

(l–1) *Family farm corporation.* A corporation for which:

(1) Not less than 50 percent of the stock is owned by:

(i) An individual or,

(ii) An individual in combination with:

(A) The spouse of such individual; or

(B) The parent, aunt, uncle, child, grandchild, or cousin of such individual; or

(C) A spouse of any individual specified in paragraph (l–1)(1)(ii)(B) of this section and;

(2) One or more of the individuals specified in paragraph (l–1)(1) of this section participates in the direct management of the day to day farming operations of the corporation.

* * * * *

(jj–1) *Shared in risk of production.* Involvement in the production of flue-cured tobacco by a person who, for any crop year before 1987, meets all of the conditions as set forth in either paragraph (jj–1) (1) or (2) of this section, or for the 1987 or any subsequent crop year, meets the conditions as set forth in paragraph (jj–1)(1) of this section.

* * * * *

§ 725.59 [Amended]

3. In § 725.59, paragraph (b) is amended by removing the words ", not to exceed the community average yield,".

§ 725.66 [Amended]

4. In § 725.66, paragraph (b) is amended by removing the second sentence.

5. Section 725.69 is amended by: removing the introductory paragraph; redesignating existing paragraphs (a), (b) and (c) as paragraphs (b), (c) and (d); removing the reference to "(b)(1)" in newly redesignated paragraph (c)(1) and inserting the reference "(c)(1)" in its place; adding a new paragraph (a); and revising new paragraph (d)(3) to read as follows:

§ 725.69 Determination of acreage allotments for new farms.

(a) The acreage allotment established for all new farms in any crop year shall not exceed the national acreage reserved for new farms. Within such reserve, the acreage allotment for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco

experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed the smaller of one acre of 50 percent of the average of the acreage allotments established for not less than two nor more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco.

* * * * *

(d) * * *

(3) *Farm includes land formerly having a tobacco acreage allotment.* A new farm tobacco acreage allotment may not be established for a farm if, during the current year or the four preceding years, the farm was constituted as any part of a farm for which an acreage allotment had been established and for which the current or a former owner:

(i) Sold all of the tobacco acreage allotment, or

(ii) Did not, as provided in Part 719 of this chapter, retain any of the tobacco acreage allotment for such land through use of the designation by landowner method of division when the allotment of such land was determined as a result of a farm reconstitution.

* * * * *

6. In § 725.72, paragraphs (d)(5)(i) and (iv) are amended by removing from the last sentence of each paragraph the words "(c) and (d)"; paragraph (o) is amended by removing the reference "(1)" preceding the first paragraph and by removing paragraph (2) in its entirety; paragraphs (a), (d)(3)(vi), (f), (g), and (l)(1) are revised; current paragraph (r) is redesignated as paragraph (s) and new paragraph (d)(4)(iv), (d)(6)(iv), (e)(2)(iii), (r), and (t) are added to read as follows:

§ 725.72 Transfer of tobacco marketing quotas by lease or by sale.

(a) *General.* Effective for 1982 through 1986 crop years with respect to a lease, and for the 1983 and subsequent crop years with respect to a sale, a flue-cured tobacco marketing quota, including a quota which has been pooled in accordance with the provisions of Part 719 of this chapter, may be transferred between farms within a county by sale or by lease. For the 1983 through 1986 crop years, a flue-cured tobacco marketing quota also may be transferred by lease to a farm in an adjoining county within the same State when the State committee authorizes the county committee to approve the transfer of such quota after June 15 if the lessor has suffered a loss of flue-cured tobacco as a result of a flood, hail, wind, tornado, or other natural disaster. Only the lessor and lessee (or any attorney, trustee, bank, or other agent or representative, who regularly represents either the lessor or lessee in business transactions unrelated to the production or marketing to tobacco) may be parties to, or involved in the arrangements for, a transfer of flue-cured tobacco marketing quota by lease.

* * * * *

(d) * * *

(3) * * *

(vi) *Certification.* Unless, for any transfer which is to be effective for either the 1985 or 1986 crop year, the farm owner has filed the certification provided in paragraph (g) of this section.

* * * * *

(4) * * *

(iv) *Certification.* Unless, for any transfer which is to be effective for either the 1985 or 1986 crop year, the lessee has filed the certification provided in paragraph (g) of this section.

* * * * *

(6) * * *

(iv) *Installment payment option.* Unless the buyer of the flue-cured tobacco acreage allotment and marketing quota has been afforded an option to pay for such allotment and quota in two to five equal annual installments payable each fall beginning with the fall of the crop year in which the transfer becomes effective and such buyer certifies on a form prescribed by the Deputy Administrator that such option has been made available to the buyer.

(e) * * *

(2) * * *

(iii) *Witness.* An authorized witness who shall be a member of a State or county committee or an ASCS employee. Each person whose signature is required by either paragraph (e)(2) (i) or (ii) of this section must sign in the presence of an authorized witness, except that when any such person whose signature is required is ill, infirm, resides in a distant area, or is in a similar hardship situation, the requirement of a witness may be waived provided the county executive director mails Form ASCS–375 to such person for the required signature.

* * * * *

(f) *Period of lease.* A transfer by lease may be for a multiple-year period: *Provided,* That such lease shall not be for any of the 1987 and subsequent crop years and shall be limited to the current crop year if the transfer agreement is filed after June 15 of any year in accordance with paragraph (1) of this section.

(g) *Compliance statement for lease.* In order for a transfer of an acreage allotment and marketing quota by lease to be valid for the 1985 or 1986 crop year, none of the considerations for the lease may be paid to the lessor prior to the first marketing of tobacco produced on the lessee farm in the current year, either directly or indirectly in any form, including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangement which represents the anticipated income for the lease: *Provided,* That the consideration for the lease may be paid on or after July 1 of the current year if no tobacco has been or will be harvested from the lessee farm in the current year. Before the county committee may approve the transfer agreement, the parties to the lease shall certify on a form prescribed by the Deputy Administrator that they are in compliance with the provisions of this section.

* * * * *

(l) *Natural disaster*—(1) *State committee authorization.* Notwithstanding any other provision of this section, the State committee may, for the 1983 through 1986 crops, authorize the county committee to approve a transfer of quota by lease which is filed after June 15 if:

* * * * *

(r) *Violation of lease provisions.* If, after a lease agreement is approved, information is brought to the attention of the county committee which indicates that either the lessor or the lessee, or both, knowingly filed a false certification with respect to a transfer of quota by lease, the county committee shall schedule a hearing, notify such person of the time and place of the hearing, and afford such person an opportunity to be present and present evidence at the hearing with respect to the allegation of a false certification. If, as a result of the evidence presented, the county committee determines that such person knowingly made a false certification, the county committee shall notify the person of the determination and afford such person 15 days after mailing of the notice to request a review of the determination by a review committee as provided for by Part 711 of this chapter.

(1) *Lessor.* If it is determined that the lessor knowingly made a false certification, the next flue-cured tobacco

acreage allotment and marketing quota established for the lessor's farm shall be reduced by that percentage which the leased quota was of the total flue-cured tobacco farm marketing quota established for the farm in the year of the lease.

(2) *Lessee.* If it is determined that the lessee knowingly made a false certification, the lease agreement for purposes of the flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered to be null and void as of the date approved by the county committee.

* * * * *

(t) *Sale of quota with installment payment option.* Notwithstanding any other provisions of this section:

(1) The owner of a farm who sells any flue-cured tobacco acreage allotment and marketing quota may:

(i) Negotiate with more than one prospective buyer before selling such allotment and quota; or

(ii) Sell such allotment and quota to any eligible buyer whom such owner may select; or

(iii) Sell such allotment and quota for a single payment; or

(iv) Include provisions in the agreement of sale to protect the seller's interest if the buyer fails to make full payment: *Provided,* That such provisions may not include the use of such allotment and quota as collateral for purposes of protecting the seller's interest in the allotment and quota.

(2) Flue-cured tobacco acreage allotment and marketing quota purchased in accordance with paragraph (t)(1) of this section shall not revert to the seller's farm but shall remain with the farm to which assigned at the time of purchase even though the buyer fails to make full payment to the seller for such allotment and quota: *Provided, however,* That this paragraph shall not apply if the buyer is required to forfeit such allotment and quota in accordance with § 725.74(d).

7. In § 725.74, paragraph (b)(2)(iii) is removed; paragraph (e) is redesignated as paragraph (f) and revised; paragraphs (f) through (j) are redesignated as paragraphs (g) through (k) respectively; new paragraphs (c)(5) and (e) are added; and paragraphs (a) (2) and (3), the introductory paragraph in paragraph (b), and paragraph (b)(1) are revised to read as follows:

§ 725.74 Forfeiture of allotment and quota.

(a) * * *

(2) For purposes of paragraphs (b) and (c) of this section, the county committee shall, in accordance with the provisions of Part 719 of this chapter, apportion the flue-cured tobacco acreage allotment and marketing quota assigned to a farm between:

(i) All land which is owned by any person which is not significantly involved in the management or use of land for agricultural purposes, as described in paragraph (b) of this section; and

(ii) Each common ownership tract of land in the farm other than that described in paragraph (a)(2)(i) of this section.

(3) With respect to the provisions of paragraph (c) of this section, an acreage allotment and marketing quota shall be determined for a tract in accordance with paragraph (a)(2)(ii) of this section only to the extent that records are available to show the contribution which the tract made to the flue-cured tobacco acreage allotment of the parent farm.

* * * * *

(b) *Person not significantly involved in management of use of land for agricultural purposes.* For purposes of this paragraph, the term "person" means a person as defined in Part 719 of this chapter, including any: governmental entity; public utility; educational institution; or religious institution, but not including any: individual; partnership; joint ventue; family farm corporation; trust, estate, or similar fiduciary account with respect to which 50 percent or more of the beneficial interest is in one or more individuals; or educational institution that uses a flue-cured tobacco acreage allotment and marketing quota for instructional or demonstrational purposes.

(1) *Required forfeiture.* If at any time the county ASC committee determines that any person which owns a farm for which a flue-cured tobacco acreage allotment and marketing quota are established is not significantly involved in the management or use of land for agricultural purposes, such person shall forfeit such allotment and quota which is not sold on or before:

(i) *Farm owned or acquired before January 1, 1983.* December 1, 1984;

(ii) *Farm acquired on or after January 1, 1983.* December 1 of the year after the year in which the farm is acquired; or

(iii) *Owner ceases to be significantly involved.* December 1 of the year after any year for which the county ASC committee determines that such peson which was previously determined to be significantly involved in the management or use of land for agricultural purposes is no longer significantly involved in the management or use of land for agricultural purposes.

* * * * *

(c) * * *

(5) *Owner disposes of or changes status of tillable cropland.* July 1 of the year after any year in which the farm owner disposes of an acreage of tillable cropland or changes the status of land in the farm so as to cause such land to lose its tillable cropland status.

* * * * *

(e) *Tobacco not planted or considered planted in 1983 and subsequent years.* Nowtwithstanding any other provision of this Part, any person which, on or after January 1, 1986, owns a farm for which a flue-cured tobacco acreage allotment and marketing quota are established shall forfeit such allotment and quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the county committee determines that flue-cured tobacco was not planted or considered planted on such farm during at least two years of such three-year period.

(f) * * *

(3) Make a determination, on the basis of the evidence presented at the hearing by or on behalf of the affected person and by or on behalf of the county committee, as to whether:

(i) Any of the conditions requiring forfeiture as specified in this section exist; and

(ii) The affected person knowingly failed to prevent forfeiture of a flue-cured tobacco acreage allotment and marketing quota.

* * * * *

8. In § 725.95, paragraph (b) is revised to read as follows:

§725.95 Producers penalties; false identifications; failure to account; canceled allotments; overmarketing proportionate shares.

* * * * *

(b) *Penalties for false identification or failure to account.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, a penalty at the full rate shall be assessed based on the larger of:

(i) The actual marketings above 110 percent of the effective farm marketing quota; or

(ii) The sum of pounds equal to 25 percent of the effective farm marketing quota plus the pounds determined by multiplying the farm yield times the acres harvested in exces of the effective farm acreage allotment: *Provided, However,* That if such amount exceeds the amount determined in accordance with paragraph (b)(1)(i) of this section,

the penalty assessed may be based on the amount determined in accordance with paragraph(b)(1)(i) of this section if the county committee determines, with concurrence of the State committee, that the penalty assessed on the amount determined in accordance with paragraph (b)(1)(ii) of this section would be unduly harsh in relation to the quantity of tobacco which is falsely identified or which is not accounted for and the tobacco program would not be adversely affected.

* * * * *

§ 725.98 [Amended]

9. In § 725.98, paragraph (a) is corrected by removing the reference "(h)" in the last sentence and inserting in its place the reference "(g)".

Signed at Washington, D.C. on April 25, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-11654 Filed 4-30-84; 8:45 am]

BILLING CODE 3410-05-M

federal register

Tuesday
May 1, 1984

Part III

Department of Agriculture

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco Marketing Quota Regulations; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations at 7 CFR Part 726 to implement the provisions of the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98–180, approved November 29, 1983) with respect to the required sale or forfeiture of burley tobacco marketing quotas by certain persons. This proposed rule would also eliminate considered planted credit for burley tobacco when it is not planted because the producer has participated in conservation programs or has installed conservation practices on the acreage which would otherwise have been planted to burley tobacco.

DATES: Comments must be received on or before May 31, 1984, in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in room 5750, South Building, USDA.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–2715.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Information collection requirements contained in this regulation (7 CFR Part 726) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560–0058 and 0560–117.

The major provisions of this proposed rule are as follows:

(1) *Farm owners must forfeit their burley tobacco marketing quota if they do not use the land on the farm for which a burley tobacco marketing quota is established for agricultural purposes or do not use such quota for educational, instructional or demonstration purposes.* This proposed rule would implement the provision of the Dairy and Tobacco Adjustment Act of 1983 (hereinafter referred to as the "1938 Act") relating to required sale or forfeiture of burley tobacco marketing quotas by persons other than individuals. The 1983 Act amended section 316B of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") to eliminate the requirement that persons, other than individuals, which own a farm for which a burley tobacco marketing quota is established must be significantly involved in the management or use of land for agricultural purposes in order to retain such quota Section 316B of the 1938 Act has been amended to require that any person, other than an individual, which owns a farm and does not use the land on the farm for agricultural purposes or does not use its burley tobacco marketing quota for educational, instructional or demonstrational purposes must sell or forfeit such quota which is established for the farm. Section 316B has also been amended to provide that such persons must sell the burley tobacco marketing quota established for the farm by December 1, 1984, or December 1 of the year after the year in which the farm is acquired or forfeit such quota to the county ASC committee. Accordingly, 7 CFR 726.69 is amended to implement these changes.

(2) *Elimination of planted acreage credit for conservation programs.* This proposed rule would also eliminate planted acreage credit for conservation programs and conservation practices with respect to burley tobacco. Presently, planted acreage credit is assigned in the current year for a farm with an established burley tobacco marketing quota if: (1) Burley tobacco is planted on the farm; (2) the burley tobacco marketing quota is: (i) leased and transferred from the farm, (ii) pooled in accordance with eminent domain provisions, or (iii) preserved under conservation programs or practices; (3) a restrictive lease on federally owned land is in effect prohibiting tobacco production; or (4) the effective burley tobacco marketing quota is zero because of overmarketings or violations of the tobacco program regulations. Currently, many farm owners are eligible to receive planted acreage credit as a result of the installation of conservation practices or participation in conservation programs even though they may have no recent history of actual tobacco production.

Section 602(g) of the Food and Agriculture Act of 1965, as amended, (hereinafter referred to as the "1965 Act") provides that the Secretary may provide for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops in order to establish or maintain vegetative cover or other approved practices for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program. Specifically, producers could enter into conservation contracts with the Commodity Credit Corporation (CCC) under a program known as the Cropland Adjustment Program (CAP). These contracts, which ranged in length from five years to ten years, required that farm owners devote a farm's cropland to certain conservation practices in order to be eligible to receive planted and considered planted credit for the history purposes in order that the owner could retain the farm's acreage allotment. In addition to a cash payment, the farm owner continued to receive planted and considered planted credit for history purposes for the duration of the conservation contract. Certain farm owners could also continue to receive planted and considered planted credit after the CAP contract expired if the farm's entire cropland was enrolled in CAP and planted in trees. This extended

period of time was equal to the length of the CAP contract.

After a review of ASCS records in major tobacco producing States, it has been determined that practically no planted and considered planted credit has been given to producers in accordance with the provisions of Section 602(g) of the 1965 Act in recent years. Also, after a farm's CAP contract has expired, it is to the disadvantage of producers to receive planted and considered planted credit in this manner because such producers derive no direct financial benefit from the farm's burley tobacco marketing quota since they neither grow such tobacco nor lease such quota. Noting recent prices for leased burley tobacco marketing quota, it is apparent that any landowners who continue to receive planted and considered planted credit in accordance with this program and who have never filed a request to lease and transfer the farm's burley tobacco marketing quota have little or no interest in utilizing the burley tobacco program for their financial benefit. Further, any farm owner still receiving planted and considered planted credit based on a CAP contract, or any other conservation program, would have 5 years in which to produce burley tobacco on the farm or lease the burley tobacco marketing quota from the farm to an active burley tobacco grower before such quota would be forfeited in accordance with 7 CFR 726.56.

In addition, the 1965 Act provides that planted and considered planted credit may also be made available to farm owners who participate in other conservation programs. Currently, 7 CFR 726.51 provides that such credit is available to participants in certain conservation programs for which Federal cost share assistance is made available, such as the Agricultural Conservation Program (ACP), and to farm owners who install comparable conservation practices on their land without Federal cost share assistance.

Since recent legislation with respect to burley tobacco has emphasized that burley tobacco marketing quotas should be utilized by those persons actively engaged in the production of such tobacco, it is proposed that 7 CFR 726.51 be amended to eliminate planted and considered planted credit for farms for which the burley tobacco marketing quota has been preserved in accordance with CAP and other conservation programs or practices. If there are any outstanding long-term conservation contracts which have been entered into by the Department under which planted and considered planted credit has been guaranteed for the length of the contract, the Department will honor such contractual provisions to the extent they are in accordance with existing law. 7 CFR 719.10(e), Preservation of cropland and allotment acreage, would be amended to conform to the proposed change.

Since 1984 planting decisions must be made immediately by burley tobacco producers, this rule must be implemented as soon as possible. Therefore, all comments must be received by May 31, 1984 in order to be considered.

List of Subjects in 7 CFR Part 726

Marketing quota, Penalties, Report requirements, Tobacco.

Proposed Rule

PART 726—[AMENDED]

Accordingly, it is proposed that 7 CFR Part 726 be amended as follows:

1. The authority citation is revised to read as follows:

Authority: Secs. 301, 313, 314, 314A, 316B, 317, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 210, 215, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, 7 U.S.C. 1301, 1313, 1314, 1314b–1, 1314b–2, 1314c, 1363, 1362–75, 1377, 1378, sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

2. In § 726.51, paragraph (aa)(2) is revised to read as follows:

§ 726.51 Definitions.

* * * * *

(aa) * * *

(2) Quota is: (i) Leased and transferred from the farm, or (ii) in the eminent domain pool.

* * * * *

§ 726.58 [Removed]

3. Part 726 is amended by removing and reserving § 726.58.

§ 726.62 [Amended]

4. In § 726.62, paragraph (c) is removed and reserved.

5. In § 726.69, paragraphs (e) through (i) are redesignated as paragraph (f) through (j), respectively; a new paragraph (e) is added; and paragraphs (a)(2) (i) and (ii), paragraph (b) and paragraph (d)(3) are revised to read as follows:

§ 726.69 Forfeiture of quota.

(a) * * *

(2) * * *

(i) A person which does not use, as described in paragraph (b) of this section, the land on the farm for which a burley tobacco marketing quota is established for agricultural purposes or for educational, instructional or demonstrational purposes.

(ii) An individual, or owned by a person which uses, as described in paragraph (b) of this section, the land on the farm for which the burley tobacco marketing quota is established for agricultural purposes or for educational, instructional or demonstrational purposes.

* * * * *

(b) *Person which does not use the land on the farm for which the burley tobacco marketing quota is established for agricultural purposes or does not use such burley tobacco marketing quota for educational, instructional or demonstrational purposes.* For purposes of this paragraph, the term "person" means a person as defined in Part 719 of this chapter, including any government entity , public utility, educational institution, religious institution or joint venture (but not including any farming operation involving only a husband and wife), but excluding any individual.

(1) *Required forfeiture.* Any person which owns a farm for which a burley tobacco marketing quota is established and does not use the land on such farm for agricultural purposes, or does not use such burley tobacco marketing quota for educational, instructional or demonstrational purposes, shall forfeit such quota which is not sold on or before:

(i) *Farm owned or acquired before January 1, 1983.* December 1, 1984.

(ii) *Farm acquired on or after January 1, 1983.* December 1 of the year after the year in which the farm is acquired.

(iii) *Owner ceases to use the land on the farm for which a burley tobacco marketing quota is established for agricultural purposes or does not use such burley tobacco marketing quota for educational, instructional, or demonstrational purposes.* December 1 of the year after any year for which the county ASC committee determines that any person which formerly used the land on such farm for agricultural purposes or formerly used the burley tobacco marketing quota for educational, instructional, or demonstrational purposes no longer uses the land or the quota for such purposes.

(2) *Agricultural Purposes.* Land on the farm for which a burley tobacco marketing quota is established shall be considered to be used for agricultural purposes if the county ASC committee determines that: (i) In the current year or either of the 2 preceding years such land is used for the production of: (A) Row crops of any type; (B) livestock or

poultry (including pasture and forage for livestock; (C) trees (including orchards and vineyards); or (D) hay or native grasses on open land; or (ii) in the current year such farm is owned by an educational institution which uses such burley tobacco marketing quota solely for educational, instructional or demonstrational purposes.

(3) *Documentation.* Within 30 days, after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(2) of this section have been met with respect to such person. Upon failure of such person to timely respond to this request, the county ASC committee shall determine that the person does not use the land on the farm for agricultural purposes, or does not use the burley tobacco marketing quota for educational, instructional, or demonstrational purposes.

(d) * * *

(3) Make a determination, on the basis of the evidence presented at the hearing by or on behalf of the affected person and by or on behalf of the county committee as to whether or not:

(i) Any of the conditions for forfeiture specified in this section exist; and

(ii) The affected person knowingly failed to take steps to prevent forfeiture of allotment and quota when such forfeiture conditions have been determined to exist with respect to the provisions of paragraph (b) of this section.

* * * * *

Signed at Washington, D.C. April 25, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-11655 Filed 4-30-84; 8:45 am]

BILLING CODE 3410-05-M

federal register

Tuesday
May 1, 1984

Part IV

Department of Education

Office of Special Education and Rehabilitative Services

Transmittal of New Applications for Fiscal Year 1984; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Auxiliary Activities; Innovative Programs for Severely Handicapped Children

AGENCY: Department of Education.

ACTION: Application Notice for Transmittal of New Applications for Fiscal Year 1984.

Applications are invited for new demonstration projects under the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program.

Authority for this program is contained in Section 624 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424)

Applications may be submitted by public or private, profit or non-profit, organizations and institutions.

The Auxiliary Activities program supports research, development or demonstration, training, and dissemination actitivies consistent with Part C of the Act which meet the unique educational needs of handicapped children and youth, including those who are severely handicapped. This application notice however, addresses only those priorities under Section 624 of the Act proposed by the Secretary for FY 1984 awards under the Auxiliary Activities—Innovative Programs for Severely Handicapped Children and Youth program.

Closing date for transmittal of applications: An application for new projects must be mailed or hand delivered on or before July 2, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.086, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Available funds: It is estimated that approximately $2,937,000 will be available for support of 26 new projects under this program in FY 1984. This estimate does not bind the Department of Education to a specific number of grants/cooperative agreement unless that amount is otherwise specified by statute or regulations. Grant/cooperative agreement approval is for a three-year period subject to an annual review of progress and availability of funds.

Priorities for funding: The notice of proposed rulemaking (NPRM) (to be codified in 34 CFR Part 315) for this program was published on April 30, 1984 as Part VI of the **Federal Register.** Applicants are referred to the proposed regulations for this program, at proposed § 315.30, that would permit the Secretary to select priorities from a list of activities included in those regulations and to propose additional priorities on an annual basis. A notice of proposed priorities was also published on April 30, 1984 in Part VI of the **Federal Register.**

Prospective applicants are advised that the proposed regulations and projected annual funding priorities are subject to modification in response to public comments submitted within 30 days of publication. In the event any substantive changes are made in any of the priorities or other requirements for new projects, applicants will be given the opportunity to amend or resubmit their applications.

The selection of priorities was based upon: (1) A comprehensive review of the program's history, including the number of responses to various requests for proposals (RFPs) and responses to the 1982 and 1983 grant competitions; and (2) an analysis of comments from professionals serving severely handicapped and deaf-blind children as to perceived needs in the field. The priority areas are listed in the table following. For further elaboration of the intent of each selected area, please consult the proposed regulations and proposed annual funding priorities.

PRIORITY AREAS—INNOVATIVE PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN FISCAL YEAR 1984

Priority No.	Priority area	Anticipated	
		Funding levels	Number of awards
84.086A	Independent living skills training for severely handicapped youth.	$862,000	8
84.086B	Parent involvement in provision of educational services and life-long planning for severely handicapped children and youth.	240,000	2
84.086C	Nondirected demonstration projects for severely handicapped children and youth.	460,000	4
84.086D	Approaches to total life planning for deaf-blind children and youth.	240,000	2
84.086E	Prevocational and vocational training for deaf-blind children and youth.	655,000	6
84.086F	Identification of at-risk deaf-blind children and youth.	120,000	1
84.086G	Nondirected demonstration projects for deaf-blind children and youth.	360,000	3

Application forms: Application forms and program information packages are expected to be available on May 4, 1984 and may be obtained by writing to the Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 4615), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information is intended to impose any paperwork, application content, reporting, or grantee

performance beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028—Expires 2/28/87)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Auxiliary Activities program (proposed for codification in 34 CFR Part 315). Applications are being accepted on the notice of proposed rulemaking for the Auxiliary Activities program which was published on April 30, 1984 as Part VI of the **Federal Register.** Applicants should prepare their applications based on the proposed regulations and proposed annual funding priorities. If any substantive changes are made in the final regulations or priorities when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts, 74, 75, 77, and 78).

For Further Information Contract: R. Paul Thompson, Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4615), Washington, D.C. 20202. Telephone: (202) 732-1161.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance No. 84.086, Auxiliary Activities—Innovative Programs for Severely Handicapped Children)

Dated: April 25, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-11687 Filed 4-30-84; 8:45 am]

BILLING CODE 4000-01-M

Deaf-Blind Children and Youth; New Grants and Cooperative Agreements

AGENCY: Department of Education.

ACTION: Application Notice for Transmittal of Fiscal Year 1984 Applications for New Grants or Cooperative Agreements—Services for Deaf-Blind Children and Youth.

Applications are invited for new projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in Section 622 of Part C of the Education of the Handicapped Act. (20 U.S.C. 1422)

Applications may be submitted by public or nonprofit private agencies, institutions, or organizations.

This program supports projects that enhance services to deaf-blind children and youth.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered on or before July 2, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.025, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: This program supports projects that: (a) Provide (1) special education and related services to deaf-blind children and youth to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act (EHA-B) and to whom States are not providing those services under some other authority, (2) technical assistance to State educational agencies to ensure the provision of special education and related services to deaf-blind children and youth to whom States are obligated to make available a free appropriate public education, and (3) special education and related services to deaf-blind children and youth to whom States are obligated to make available a free appropriate public education under EHA-B and to whom States are providing those services under some other authority; (b) establish and support programs of technical assistance to grantees under activity (a); (c) provide assistance to State educational agencies in making available to deaf-blind youth, upon attaining the age of 22, programs and services to facilitate the transition of these youth from education to employment and other services; (d) examine the data reported annually by grantees in the provision of services under the Act; and (e) disseminate materials and information concerning effective practices in working with deaf-bling children and youth.

In a notice of proposed rulemaking (NPRM) published on April 30, 1984 as Part VII of the **Federal Register,** the Secretary proposed revised regulations, including priority areas, for this program. In accordance with proposed 34 CFR 307.30, the Secretary will enter into grants or cooperative agreements for fiscal year 1984 under the four priority areas listed in the table under "Available Funds" below.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled "Intergovernmental Review of Federal Programs". The regulations took effect on September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

• Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and

• Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States which have established a process, designated a single point of contact, and selected this program for review:

Arizona	New Mexico
Arkansas	New York
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Indiana	Tennessee
Kentucky	The Northern Mariana Islands
Louisiana	Utah
Michigan	Vermont
Missouri	Virginia
Montana	West Virginia
Nebraska	Wisconsin
Nevada	Wyoming
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional and local entities must be mailed or hand delivered by *August 1, 1984* to the following address:

The Secretary, U.S. Department of Education, Room 4181, (CFDA Number 84.025), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Available funds: It is estimated that approximately $10,140,000 will be available for support of projects under this program for fiscal year 1984 in accordance with the priorities shown in the table below. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Grants or cooperative agreements will be for up to a three year period subject to renewal under the standards in EDGAR, 34 CFR 75.253.

Priority No.	Priority area	Anticipated funding level	Anticipated number of awards
84.025A	Services for Deaf-Blind Children and Youth (proposed 34 CFR 307.11).	$8,140,000	6 or more.[1]
84.025B	Technical Assistance to Entities Providing Services to Deaf-Blind Children and Youth (proposed 34 CFR 307.12).	1,000,000	1.
84.025C	Services to Deaf-Blind Youth upon Attaining Age 22 (proposed 34 CFR 307.13).	700,000	1.
84.025D	Data Analysis and Reconciliation and Information Dissemination (proposed 34 CFR 307.14 and 307.15).	300,000	1).

[1]The number of awards issued under this priority will depend on the number of individual States and the groups of States electing to participate independently from their designated regions, as authorized under 34 CFR 307.11(d).

Application forms: Application forms and program information packages are expected to be ready for mailing by May 4, 1984. These materials may be obtained by writing to the Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4615), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirements beyond those imposed under the statue and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028—Expires 2/28/87)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program (proposed for codification in 34 CFR Part 307). A notice of proposed rulemaking for Part 307 was published on April 30, 1984 as Part VII of the **Federal Register.** Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made when the regulations are published in final form, applicants will be given the opportunity to amend or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

FOR FURTHER INFORMATION CONTACT: Charles W. Freeman, Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4607), Washington, D.C. 20202. Telephone: (202) 732–1165.

(20 U.S.C. 1422)

(Catalog of Federal Domestic Assistance Number 84.025; Services for Deaf-Blind Childen and Youth)

Dated: April 26, 1984.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 84–11688 Filed 4–30–84; 8:45 am]

BILLING CODE 4000–01–M

Postsecondary Education Programs for Handicapped Persons

AGENCY: Department of Education.

ACTION: Application Notice for Transmittal of New Applications for Fiscal Year 1984.

Applications are invited for new demonstration projects under the Regional Education Programs for Handicapped Persons.

Authority for this program is contained in Section 625 of Part C of the

Education of the Handicapped Act (20 U.S.C. 1424a).

Applications may be submitted by State educational agencies, institutions of higher education including junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies.

The purpose of this program is to develop, operate, and disseminate specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered on or before July 6, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.078, 400 Maryland Avenue, SW., Washington, D.C. 20202. An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: (a) In a notice of proposed rulemaking (NPRM) published on April 30, 1984 as Part IV of the **Federal Register**, the Secretary proposed revised regulations, including priority areas, for this program. In accordance with proposed § 338.30 (b) and (c), the Secretary will award fiscal year 1984 grants under the combined priorities relating to the development, evaluation, and outreach of innovative demonstrations, as described in proposed § 338.10 (a)(2)(i), (a)(2)(iii), and (a)(3). An application that does not address a priority area will not be considered. If an application addresses both a priority and non-priority area, the Secretary will consider only that portion that addresses a priority.

(b) The Secretary especially urges the submission of applications for projects to serve handicapped individuals leaving special education, including the learning disabled and the mildly mentally retarded. However, applications that meet the invitational priorities described in this paragraph will not receive a competitive preference over other applications that meet the absolute priorities described in paragraph (a).

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled "Intergovernmental Review of Federal Programs." The regulations took effect on September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financal assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increase Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not coverd by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects which do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is a current list of States which have established a process, designated a single point of contact, and have selected this program for review:

Arizona	New York
Arkansas	Northern Mariana Islands
California	Oklahoma
Colorado	Oregon
Delaware	Pennsylvania
Florida	Puerto Rico
Indiana	Rhode Island
Kentucky	South Carolina
Louisiana	Utah
Michigan	Vermont
Missouri	Virginia
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comment directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by *August 1, 1984* to the following address:

The Secretary, U.S. Department of Education, Room 4181, CFDA Number 84.078, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications).

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Available funds: Approximately $2,200,000 is expected to be available for support of new model demonstration projects in fiscal year 1984. An

estimated 15 new grants will be awarded for fiscal year 1984, with an average award of approximately $150,000. An applicant may propose a project period of one, two, or three years.

These estimates do not bind the Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing on May 11, 1984. Application forms may be obtained by writing to the Postsecondary Education Programs, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4084), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application packages. However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028—Expires 2/28/87)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Postsecondary Education Programs for Handicapped Persons (proposed for codification in 34 CFR Part 338). A notice of proposed rulemaking for Part 338 was published on April 30, 1984 as Part IV of the **Federal Register.** Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to amend or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Rosenstein, Postsecondary Education Programs, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 4084), Washington, D.C. 20202. Telephone (202) 732-1176.

(20 U.S.C. 1424a)

(Catalog of Federal Domestic Assistance No. 84.078, Postsecondary Education Programs for Handicapped Persons)

Dated: April 26, 1984.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 84-11685 Filed 4-30-84; 8:45 am]

BILLING CODE 4000-01-M

Secondary Education and Transitional Services for Handicapped Youth

AGENCY: Department of Education.

ACTION: Application Notice for Transmittal of New Applications for Fiscal Year 1984.

Applications are invited for new projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in section 626 of Part C of the Education of the Handicapped Act (20 U.S.C. 1425). This program supports research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

Applications may be submitted by institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*)).

Closing date for transmittal of applications: An application for a new project must be mailed or hand delivered on or before July 6, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: CFDA Number 84.158, 400 Maryland Avenue, NW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:40 p.m. on the closing date.

Program information: In a notice of proposed rulemaking (NPRM) published on April 30, 1984 as Part III of the **Federal Register,** the Secretary proposed revised regulations, including priority areas, for this program. In accordance with proposed §§ 326.30 and 326.31, the Secretary will award fiscal year 1984 grants under the priorities for Transition Strategies and Techniques, Service Demonstration Models, and Cooperative Models for Planning and Developing Transitional Services set out at § 326.30 (a), (b), and (e), respectively. A description of those priorities follows:

1. Transition Strategies and Techniques—New Projects

This priority (proposed § 326.30(a)) supports research projects designed to develop strategies and techniques for transition to competitive or supported

employment through improvements in independent living skills, secondary and postsecondary education, vocational preparation, and availability of work opportunities.

2. Service Demonstration Models—New Projects

This priority (proposed § 326.30(b)) supports projects that develop and establish exemplary models for services and programs, including specific vocational training and job placement, that result directly in paid employment in regular work settings for handicapped youth leaving school; or that enhance the effectiveness of secondary and postsecondary services which lead to employment.

3. Cooperative Models for Planning and Developing Transitional Services—New Projects

This priority (proposed § 326.30(e)) supports projects designed to plan and develop cooperative models for activities among State or local educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning to meet the service and employment needs of handicapped youth as they leave school.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Resgister** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled "Intergovernmental Review of Federal Programs." The regulations took effect on September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. This is a new program which results from the provisions of the Education of the Handicapped Act Amendments of 1983. No States have elected to review this program under the Executive Order.

Available funds: It is estimated that approximately $3,000,000 will be available for grants to carry out new projects under this program for fiscal year 1984. Of this $3,000,000, approximately $1,000,000 will be available to support 10 research projects for Transition Strategies and Techniques; approximately $1,000,000 will be available to support 10 projects for Service Demonstration Models; and approximately $1,000,000 will be available to support 13 Cooperative Models for Planning and Developing Transitional Services. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be available on May 11, 1984 and may be obtained by writing to the Research Projects Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

(OMB 1820—0028—Expires 2/28/87)

Applicable regulations: Regulations applicable to this program announcement include the following:

(a) Regulations governing the Secondary Education and Transitional Services for Handicapped Youth program (proposed to be codified in 34 CFR Part 326). A notice of proposed rulemaking for Part 326 was published on April 30, 1984 as Part III of the **Federal Register**. Applicants should prepare their applications based on the proposed rules. If there are any substantive changes made when the final regulations or priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CF Parts 74, 75, 77, 78, and 79).

FOR FURTHER INFORMATION CONTACT: Dr. William Halloran, Research Projects Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3521), Washington, D.C. 20202. Telephone: (202) 732–1064.

(20 U.S.C. 1425)

(Catalog of Federal Domestic Assistance Number 84.158, Secondary Education and Transitional Services for Handicapped Youth)

Dated: April 26, 1984.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 84-11684 Filed 4-30-84; 8:45 am]

BILLING CODE 4000-01-M

Training Personnel for the Education of the Handicapped Program

AGENCY: Department of Education.

ACTION: Application Notice Establishing the Closing Date for Transmittal of Fiscal Year 1984 New Grant Applications.

Applications are invited for new projects under the authority of the combined Special Projects and Transition of Handicapped Youth to Adult and Working Life priorities of the Training Personnel for the Education of the Handicapped program.

(20 U.S.C. 1431 and 1434)

Grants for the Training Personnel for the Education of the Handicapped program are authorized by Sections 631, 632, and 634 of Part D of the Education of the Handicapped Act. Regulations for the Training Personnel for the Education of the Handicapped program are proposed to be codified in 34 CFR 318. A notice of proposed rulemaking was published on April 30, 1984 as Part V of the **Federal Register.**

The purpose of the over-all program is to increase the quantity and improve the quality of personnel to educate handicapped children and youth. The purpose of the Special Projects priority is to support the development, demonstration, evaluation, and distribution of imaginative or innovative approaches to the preparation of personnel to educate handicapped children and youth. The purpose of the priority on Transition of Handicapped Youth to Adult and Working Life is to prepare personnel for employment in programs designed to prepare handicapped youth for community placement and adjustment to the community setting. Applicants must meet both priorities in order for their applications to be considered.

Awards under the Training Personnel for the Education of the Handicapped program may be made to institutions of higher education, other nonprofit institutions, and State educatinal agencies.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered on or before July 2, 1984.

Applications delivered by mail: Applications must be addressed to the Deartment of Education, Application Control Center, Attention: 84.029T, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Seervice postmark.

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail.

Applications delivered by hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information: In accordance with the proposed 34 CFR 318.10(b) and 318.11, the Secretary proposes to award grants under the combined priorities on Special Projects (proposed § 318.11(b)(5)) and Transition of Handicapped Youth to Adult and Working Life (proposed § 318.11(b)(6)) of the Training Personnel for the Education of the Handicapped program in fiscal year 1984. An application that does not address both priority areas will not be considered. If an application addresses both the combined priority areas and a non-priority area, the Secretary will consider only that portion that addresses the combined priority areas.

The Secretary especially urges the submission of applications to prepare leadership personnel who will train direct service personnel to assist handicapped students in the transition from school to employment and community living. Applications that meet this invitational priority, however, will not receive a competitive or absolute preference over other applications that describe projects in accordance with the combined priority.

Available funds: An applicant for a grant may propose a project period of up to 36 months. It is anticipated that approximately $500,000 will be available for this competition. The average award is expected to be about $90,000. This estimate of funding level does not bind the Department to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages for new applications are scheduled to be available for mailing on May 4, 1984. These materials may be obtained by writing to the Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 4628, Switzer Building), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the proposed regulations, instructions, and forms included in the application package. However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information packages is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges applicants to submit only the information that is requested.

(OMB 1820-0028—Expires 2/28/87)

Applicable regulations: Regulations applicable to this program announcement include the following:

(a) Regulations governing the Training Personnel for the Education of the Handicapped program (proposed for the codification in 34 CFR Part 318) was published on April 30, 1984 as Part V of the **Federal Register.** Applicants should prepare their applications based on the proposed rules. If there are any substantive changes made when the final regulations are published, applicants will be given the opportunity to amend or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: Dr. Max Mueller, Director, Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 4628, Switzer Building), Washington, D.C. 20202. Telephone: (202) 732-1068.

(20 U.S.C. 1431, 1434)

(Catalog of Federal Domestic Assistance No. 84.029, Training Personnel for the Education of the Handicapped)

Dated: April 26, 1984.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 84-11686 Filed 4-30-84; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
May 1, 1984

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

Revision of Minimum Property Standards (MPS) for Multifamily Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-84-1059; FR-1529]

Revision of Minimum Property Standards (MPS) for Multifamily Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD's Minimum Property Standards (MPS) for Multifamily Housing in several respects. First, it eliminates unnecessary requirements. Second, it deletes the health and safety criteria from the present Multifamily MPS in favor of the provisions of national model building codes or state and local codes that the HUD field office has verified as comparable to one of the national model codes. Finally, it updates various standards and criteria and reorganizes some parts of the Multifamily MPS.

These revisions will preserve the quality of multifamily housing and protect the Department's insurance fund while simplifying the MPS.

EFFECTIVE DATE: June 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mark W. Holman, Manufactured Housing and Construction Standards Division, Room 3232, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6590. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The National Housing Act, 12 U.S.C. 1701-1749 authorizes the Secretary of Housing and Urban Development (Secretary) to prescribe standards for determining the acceptability of multifamily residential structures for purposes of mortgage insurance. *See, e.g.,* 12 U.S.C. 1715/(f). Some general statutory guidelines govern the nature of these standards. For example, the standards are "to establish the acceptability of * * * propert[ies] for mortgage insurance * * *." 12 U.S.C. 1715/(f). In addition, the standards must be consistent with the declared national housing policy of realizing "the goal of a decent and suitable living environment for every American family * * *." *See* 42 U.S.C. 1441.

The Department has prescribed these standards by issuing the Minimum Property Standards for Multifamily Housing (MPS). Changes are being made to the MPS to further the indicated statutory purposes. The MPS for Multifamily Housing are published as HUD Handbook 4910.1, and incorporated by reference into the Department's regulations by authority of 24 CFR 200.927.

On February 24, 1983, the Department published a proposed rule to revise the MPS. *See* 48 FR 8032 (1983). That rule proposed that the Department rely upon acceptable local codes or designated nationally recognized model building codes to provide the health and safety criteria of the MPS. The rule also proposed the deletion of unnecessary criteria and the consolidation, simplification and updating of certain requirements. Thirty-seven comments were received in response to the proposed rule, and the Department has evaluated the revisions to the MPS in light of those comments.

The Department has also evaluated the revisions to the MPS in light of the recent amendment of Section 526 of the National Housing Act, 12 U.S.C. 1735f-4. *See* Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, Section 405, 97 Stat. 1153 (1983). As amended, section 526(b) of the National Housing Act, 12 U.S.C. 1735f-4(b), permits the Secretary to require, with respect to health and safety, that multifamily properties comply "with one of the nationally recognized model building codes, or with a State or local building code based on one of the nationally recognized model building codes or their equivalent." The Secretary is "responsible for determining the comparability of the State and local codes to such model codes * * *"

I. The Final Rule

A. General

The Department is revising the MPS for Multifamily Housing in order to simplify them. Generally, HUD will rely upon State or local codes or nationally recognized model codes to provide the health and safety criteria for its multifamily MPS. The Department will rely upon a State or local code only after it has been accepted by the Department as being comparable to one of the nationally recognized model building codes or its equivalent. In some areas, the Department may partially accept a State or local code. In such areas, the Department will rely upon the State or local code, plus those provisions of one of the nationally recognized model codes identified by the local HUD Field Office in accordance with the table set forth in Appendix J of the Handbook identified in § 200.929(b)(2). In areas where a State or local code has not been accepted or partially accept by the Department, the Department will require compliance with one of the nationally recognized model codes identified in 24 CFR 200.925c(a)(1).

In those instances where the Department requires compliance with a model code, the developer or other interested party must comply not only with a model code, but also with the codes or standards incorporated by reference therein. In one instance, a model code incorporates all necessary standards. In two other instances, however, the Department has found it necessary to supplement the model codes by requiring compliance with certain additional codes and standards. Therefore, where compliance with a model code is required, not only is compliance with the standards incorporated by reference therein necessary, but compliance with the other codes or standards identified in § 200.925c(c) (2) and (3) is necessary as well.

In all instances, the Department will require compliance with the standards retained in HUD Handbook 4910.1, entitled "MPS for Multifamily Housing." In this handbook, the Department has retained standards relating to durability, energy and certain other matters.

The final rule also consolidates various requirements applicable to housing for the elderly in a single section of the MPS Handbook (Section 100-1.2). Further, it consolidates requirements necessary to accord accessibility to physically handicapped persons in Section 100-1.3, which generally references American National Standards Institute Standard No. A117.1. The final rule does not establish the extent of accessibility or the number of accessible units required. Rather, such requirements are established on a program-by-program basis. *See, e.g.,* U.S. Department of Housing and Urban Development, *Revised Submission Requirements, Standard Ranking Criteria and Selection Procedures for the Fiscal Year 1983 Section 202 Program—Application for Fund Reservation* 3 (1983).

B. Standard for Determining Comparability of State or Local Codes

The Department will determine whether a State or local code is comparable to one of the nationally recognized model codes by conducting an analysis of the comprehensiveness of the State or local code. For use in performing this analysis, the Department has prepared a list of construction

related areas. *See* 24 CFR 200.925b. This list is based upon the provisions of the nationally recognized model building codes and is made up of major areas and subareas. Each major area has been made a separate paragraph of 200.925b. For example, Fire Safety is paragraph (a) and Light and Ventilation is paragraph (b). With one exception, each major area has been further divided into subareas. For example, the Light and Ventilation paragraph has been divided into two subareas: (1) Habitable rooms and (2) Bath and Toilet rooms.

A state or local code will be found comparable, and therefore acceptable, if it regulates every area set forth in 200.925b. A State or local code will be found partially acceptable if it fails to regulate up to eight subareas; however, no code will be found partially acceptable if it fails to regulate subareas in more than one of the major areas.

If a local code is not found to be partially acceptable, multifamily residential structures must comply, for HUD purposes, with one of the model codes identified in 200.925c(c), as well as with the Minimum Property Standards for Multifamily Housing.

Consequently, every State or local code which is partially accepted will be deficient in one major area. The local HUD Field Office will remedy the deficiency by designating those provisions of a model code which regulate the entire major area found deficient. Such designation shall be made in accordance with the table set forth in Appendix J of the Handbook identified in § 200.929(b)(2). The Field Office will choose the model code from which the provisions are selected.

For example, a jurisdiction's code may be deficient in the Electrical major area because it fails to regulate the Equipment for General Use and Communication Systems subareas. In such a case, the code would be found to be partially acceptable. The Field Office would remedy the deficiency in the Electrical major area by designating the National Electrical Code. Then, in that jurisdiction, properties would be required to comply with the entire local code and the entire National Electrical Code.

As another example, a jurisdiction's code may not be acceptable because it fails to regulate the Excavations subarea in the Foundation Systems major area. In this instance, the HUD Field Office would remedy the deficiency by designating either Chapters 23, 24, 25, 26, 27 and 29 of the Uniform Building Code; Chapter 13 of the Standard Building Code; or Article 10 and § 1807 of the BOCA Basic/National Building Code. Then, in that jurisdiction, properties would have to comply with the indicated provisions from the code designated by the HUD Field Office plus the entire local code.

To determine whether this method of evaluating comparability would protect the Department's interests and satisfy all statutory requirements, the Department conducted a study of representative local codes. Codes from nine jurisdictions were evaluated. Three of the jurisdictions were large cities, three were medium sized cities, and three were small cities. One city of each size was selected from geographically diverse areas of the nation. As a result of this evaluation, it was found that seven of the codes regulated the areas identified in § 200.925b.

These codes were then subjected to a more detailed evaluation. This detailed analysis was performed to determine whether such local codes were in fact comparable to one of the nationally recognized model codes. In each case where the Department subjected a code to detailed analysis, it determined that it was comparable to one of the model codes.

C. Review Process

Before a local code can be relied upon to provide the health and safety requirements of the MPS, it must be accepted or partially accepted by the Department. The Department will review a State or local code when it receives a request from a developer or other interested party. The person requesting review must submit to the HUD Field Office a copy of the building code and a copy of the statute, ordinance, order or regulation establishing the code, if any. The submitting party would not be required to submit copies of any part of a code already in the possession of the particular HUD Field Office. If the Department declines to accept a local code, the submitting party will be notified, and will be given an opportunity to present its views as to why the local code should be accepted.

By the time of application for mortgage insurance or other benefits, the developer or other interested party must submit the material described in the preceding paragraph if the local code has not been previously accepted or partially accepted and if that developer wishes to have it accepted. If a local code has been previously accepted or partially accepted, then the developer need only submit either a certificate stating that the local code has not been changed since its acceptance or partial acceptance by the Secretary, or a copy of all changes that have been made since the date of the Secretary's acceptance or partial acceptance.

Each Regional Office will maintain a current list of jurisdictions with accepted or partially accepted codes.

D. Selection of Model Code

In those jurisdictions without acceptable local codes, multifamily residential structures must comply, for HUD purposes, with one of the model codes identified in 24 CFR 200.925c(c), as well as with the Minimum Property Standards for Multifamily Housing. The developer or other interested party must notify the HUD Field Office of which model code will be used. *See* § 200.925a(d)(1)(i)(A).

In those jurisdictions with a partially acceptable local code, multifamily properties must comply, for HUD purposes, with certain portions of the model codes identified in 24 CFR 200.925c(c). The HUD Field Office shall designate the model code from which these portions will be selected. In addition, the HUD Field Office shall identify, in the written notice of partial acceptance, those portions of the code with which the property must comply. These portions shall be chosen in accordance with the table set forth in Appendix J of the Handbook identified in § 200.929(b)(2).

The requirement to comply with all or any part of a model code applies only to the HUD project in question and has no applicability to other buildings in the community.

II. Public Comments

The Department received 37 comments. Many of these indicated support for the policies underlying the proposed rule. Other comments suggested changes to specific provisions of the MPS. Several comments expressed opposition to the proposed rule.

A. Energy

The largest number of the public comments concerned the thermal insulation requirements of the multifamily MPS. The commenters suggested a variety of revisions to those requirements, such as replacing the thermal standards with performance criteria; abolishing the differences between the thermal requirements for masonry construction and those for wood frame construction; permitting different standards for different building designs; and tightening the thermal requirements in general. In February, 1983 the Department published a proposed version of the Minimum Property Standards for Multifamily

Housing Handbook. This handbook contains the thermal insulation requirements which were identical to those in effect under the then existing rule. In response to the comments, the Department has revised these requirements under its statutory mandate to increase the energy efficiency of newly constructed residential housing insured under the National Housing Act.

Section 526 of the National Housing Act, 12 U.S.C. 1715f–4, as amended by Section 405(a) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, 97 Stat. 1153 (1983), states that the Secretary of Housing and Urban Development shall establish energy performance requirements for housing subject to mortgages insured under the Act. These requirements are to achieve a "significant increase" in the energy efficiency of these structures. After conducting an analysis of the various means of implementing Section 526, the Department has decided to adopt the 1983 edition of the Model Energy Code (MEC).

The energy requirements contained in the Model Energy Code will generally provide greater energy efficiency. The Model Energy Code is based upon ASHRAE Standard Number 90A–1980, a voluntary consensus standard developed by the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. In addition, the Model Code for Energy Conservation in New Building Construction, 1977 edition and the Building Officials and Code Administrators International, Inc. energy conservation standards, 1981 Edition are both based upon ASHRAE Standard Number 90–1975, predecessor of the 90A–1980 standard. The ASHRAE standards and their progeny are widely used and accepted.

The MPS have regulated building envelope performance in the past. With the incorporation of the MEC, the Department will regulate building envelope performance and the energy efficiency of mechanical systems and equipment.

Several commenters suggested that the Department retain the distinction in the energy efficiency requirements between masonry and frame construction. A larger number of commenters suggested the elimination of the distinction. Some difference in requirements may be appropriate, based upon the greater mass of masonry structures. However, the Department has been unable to determine what differences, if any, are appropriate for various types of construction in different parts of the country. As a result, the Department will permit the consideration of mass as a means of reducing thermal requirements on a case by case basis only.

The rule permits the HUD Field Office to take into account the thermal mass of building components to the extent that the developer or other interested party can provide the HUD Field Office with empirical evidence that quantifies the effect of thermal mass with respect to both the specific geographical location and the specific type of construction in question. Ultimately, each building must provide a level of energy efficiency that is equivalent to that otherwise required by the MPS.

The Department has concluded that this approach fairly resolves the matter. The Department has complied with its statutory mandate to increase energy efficiency. At the same time, this approach permits the consideration of all methods of energy conservation to the extent that they actually reduce energy consumption.

Section 405(a) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98–181, 97 Stat. 1153 (1983) also states that:

> The energy performance requirements developed and established by the Secretary under this subsection for newly constructed residential housing, other than manufactured homes, shall be at least as effective in performance as the energy performance requirements incorporated in the minimum property standards that were in effect under this subsection on September 30, 1982.

The energy requirements established by this rule satisfy this requirement.

B. Livability and Marketability Criteria

A few commenters opposed the elimination of certain livability and marketability criteria, contending that the proposed rule would encourage the development of substandard structures that would fail to provide its residents with decent, safe and sanitary housing. The Department, however, has concluded that the deleted requirements were duplicative or unnecessary and needlessly increased the cost of providing housing for low income families. The Department believes that the remaining multifamily MPS satisfy HUD's interests in providing decent, safe and sanitary housing and in protecting its insurance funds. The Department believes that structures built to the MPS will provide decent, safe and sanitary housing.

The standards set forth in the revised MPS Handbook are mandatory for all multifamily dwellings subject to the MPS. Retained in the handbook are many criteria that enhance both the livability and marketability of multifamily dwellings insured by the Department. For example, standards regulating noise control (section 302–2) and parking facilities (section 304) have not been deleted from the MPS.

In addition to the requirements of the MPS Handbook, multifamily dwellings will have to comply with either an acceptable or partially acceptable local code and/or with all or part of one of the nationally recognized model codes. These codes generally contain criteria that enhance livability. For example, such codes often contain requirements governing such things as lighting and room size.

Other factors will both encourage the construction of decent, safe and sanitary housing and protect the Department's insurance fund. At the local level, HUD staff will continue to provide project architects with guidance regarding local norms for marketability and livability. Such guidance will be of value because, in the valuation analysis employed by HUD as part of its underwriting process, the Department will continue to weigh marketability and livability criteria. As a result, the Department's insurance fund will be protected because the Department's risk will be directly related to the value of the structure.

C. Health and Safety Criteria

One commenter opposed the Department's proposed reliance upon state and local codes on the grounds that local building codes are generally inferior to the MPS. The commenter argued that reliance on local codes for health and safety will cause an overall reduction in the safety and healthfulness of multifamily housing nationwide. The Department, however, has concluded that these changes will not compromise the healthfulness and safety of multifamily housing and that the changes are consistent with 12 U.S.C. 1735f–4(b). The Department has concluded that the comprehensiveness method of determining the comparability of local codes to the nationally recognized model codes does in fact establish an acceptable level of health and safety production.

Another commenter opposed the proposed shift of health and safety criteria from the MPS to local codes on the grounds that local codes are of uneven quality and of widely varying content. The commenter contended that wide variations in the healthfulness and safety of multifamily housing in different localities would result. The Department is aware of the fact that local codes vary, but it believes that its acceptance process will permit HUD to filter out inadequate local codes. Variations among acceptable codes will allow

construction to be attuned more closely to local needs and to reflect more accurately the particularities of a specific area.

One comment submitted in opposition to the proposed change in the MPS health and safety criteria argued that HUD, by referencing the three model codes, was in fact increasing its intrusion into local affairs, rather than reducing it. The commenter argued that the only kind of code that HUD would find acceptable would be a performance code, which no known locality has adopted. The commenter further contended that local governments would feel pressured to discard their codes in favor of one of the model codes. The commenter recommended either that HUD not implement this proposal, or, at least, that HUD conduct a Regulatory Impact Analysis under Executive Order 12291 to determine the rule's impact on local jurisdiction.

The Department has concluded that referencing the national model codes will not cause heightened Federal intrusion into local affairs. HUD is not requiring any jurisdiction to modify its code or to adopt one of the model codes. Rather, the Department is requiring that those HUD projects located in jurisdictions without acceptable or partially acceptable codes conform to one of the model codes. The selected model code will apply for HUD purposes only. In addition, the MPS do not preempt local codes. Builders and developers of multifamily properties subject to the MPS will always have to comply with such codes.

As for conducting a Regulatory Impact Analysis (RIA), HUD does not believe that this rule meets any of the prerequisites for conducting such an analysis. An RIA need only be performed for those rules that constitute "major rules" under Executive Order 12291. Major rules are defined as regulations that are likely to cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or have an annual effect on the economy of $100 million or more. HUD believes that this rule will not increase costs or prices for any of the indicated parties or have the adverse effect indicated above. HUD's information also indicates that this rule will not have an effect on the economy of $100 million or more. The removal of the health and safety criteria from the MPS Handbook and reliance upon other codes will have only a limited direct monetary effect. HUD has therefore decided that it is not necessary to conduct a RIA for this rule.

One commenter argued that the proposed rule would inconvenience project builders by requiring them to consult various referenced standards, instead of one all-inclusive handbook. The Department believes that this rule will reduce the burden on builders and developers and, in fact, will often reduce the number of referenced standards which must be consulted. The commenter further argued that local authorities might fail to establish health and safety standards to replace those eliminated from the MPS. The comprehensiveness comparison system, however, will ensure that if the construction standards of a given jurisdiction are substandard, compliance with a model code, or portions thereof, will be required for HUD projects.

In sum, the Department believes that the elimination of health and safety criteria from the MPS in favor of local or model codes will not result in a decline in the quality of housing insured by HUD. The Department also believes that this rule will maintain the healthfulness and safety of the nation's housing while reducing unnecessary regulations.

D. Durability

Several commenters opposed the proposed rule because they believed that it would eliminate all durability criteria from the MPS. The commenters emphasized the importance of retaining standards that would ensure that federally assisted housing remain structurally viable, with a minimum of maintenance costs.

Most of the criteria retained in the Multifamily MPS, however, in fact concern the durability of the structures. These criteria have been retained because the Department believes that the model or local codes alone would not be sufficient to safeguard the Department's interest in the durability of housing. The retention of these criteria relating to durability, coupled with the other applicable requirements, should ensure the continuing viability and marketability of multifamily structures.

E. Technical Provisions

The Department also received a number of comments regarding specific provisions of the MPS. In general, these comments urged the Department to retain or amend various provisions thereof. These comments have been carefully considered, and the Department has modified the MPS where appropriate.

Several commenters expressed concern that the fire protection requirements contained in the model building codes are not as stringent as those in the prior MPS. These commenters recommended that HUD retain its MPS fire standards, until the model code requirements are upgraded. The Department believes that its interests in the safety of the housing residents and in the protection of its insurance fund will be protected by the standards set forth in model codes and acceptable local codes. For example, a local code must have a provision concerning building alarm systems before the Department will approve the codes. *See* § 200.925b(a)(7).

One commenter noted that under the proposed standards, it was possible to install an elevator which would meet the handicapped requirements of the MPS, but which would not permit a standard-sized ambulance stretcher to be carried on the elevator. The commenter suggested that HUD continue to use the current MPS standards for elevators. The Department finds this comment persuasive. As a result, sections 100–1.2i(2), 402–3.2 and 614–1 of the MPS have been modified accordingly.

Another commenter requested that HUD retain sections 309–3.2 and 502–2 of the former MPS, which require that projects store garbage containers in racks complying with Federal Specification RR–H–1070. The commenter contended that these requirements were essential to ensuring sanitary and cost-effective garbage disposal. The Department has considered this proposal, but has rejected it as unnecessary. The Department is relying on the model codes or acceptable local codes for most health and safety requirements, and this case offers no compelling reason for departing from that policy.

Another commenter urged HUD to retain Section 404 of the former MPS, entitled "Acoustic Control." This commenter argued that neither local codes nor the model codes adequately address this area. The Department has determined that the retention of Section 404 of the former MPS is unnecessary to protect its interests in providing decent, safe and sanitary housing and in preserving its insurance fund.

A few commenters questioned when the Department intended to publish new criteria for those sections in the proposed MPS Handbook marked "Reserved," or urged the Department to remove those sections. The section numbers of deleted MPS requirements,

identified with the word "Reserved," were included in the proposed rule for the convenience of the reviewers in crossreferencing the existing MPS. In the final rule, these section numbers have been deleted.

One commenter suggested that the Department change the wording of Section 102–1.2(b) of the proposed MPS Handbook to permit the referencing of specialty codes. As far as the Department is concerned, local jurisdictions may adopt specialty codes as part of their local building codes. The provisions of the handbook have been reworded to reflect the comprehensiveness approach. Local codes, including adopted specialty codes, will be found acceptable if they meet the comprehensiveness requirements.

Another commenter recommended that the Department reference industry standards for masonry. The final rule contemplates reliance upon local and model codes for health and safety considerations such as regulation of masonry. *See* Residential Building Code Comparison items listed in § 200.925b. Consequently, it is unnecessary to reference masonry standards.

Similarly, several revisions to the MPS appendices were suggested. One commenter suggested that brick be included in Section 509–2 of Appendix C; the same commenter also urged HUD to reference various engineering practice standards in Section 604 of Appendix E. The standards referenced in Appendices C and E, however, are those which the Department considers essential for durability of the project, but which are not typically included in model codes because they are not directly related to health and safety. Thus, the Department has decided not to include these items in these appendices.

Another commenter questioned whether the appendices of the model codes would be included in the revised Multifamily MPS. Section 200.925c specifically identifies the particular appendices of the model codes which are incorporated by reference.

One commenter suggested that the Department impose a requirement that at least some units in HUD-supported multifamily housing be of barrier free design. Section 100–1.3 of the MPS Handbook provides that the HUD Field Offices will advise the project architect, on a project-by-project basis, of the extent to which handicapped accessibility will be required. Requirements concerning accessibility are established on a program-by-program basis.

Another commenter contended that HUD should retain Table 6–3.1 of the former MPS, which governs the minimum allowable compressive strengths of concrete. The Department, however, believes that the model and acceptable or partially acceptable local codes establish appropriate standards to protect its interests in that area; accordingly it has declined to retain Table 6–3.1.

Some commenters suggested the updating or amendment of certain standards in the appendices. Accordingly, HUD has updated and made various minor changes in the appendices.

One commenter suggested that the model code organizations' reports on alternate materials be recognized by the Department. 12 U.S.C. 1735e requires that the Department establish a procedure for the acceptance of materials and products for use in structures insured under the National Housing Act. The Department cannot delegate this responsibility to the model code organizations.

Finally, HUD received one comment suggesting that the Department conduct a survey designed to determine the actual level of use of the nationally recognized model codes. Such a survey, it was argued, would guarantee that HUD's actions are based upon adequate information. The Department has conducted a study to determine the level of protection generally offered by both local and model codes, and whether these codes in fact would protect the Department's interests. The Department has concluded that these codes are sufficient for that purpose. Moreover, HUD based its decision to rely upon the model building codes on, among other things, Section 526 of the National Housing Act, 12 U.S.C. 1715f–4, as amended by Section 405(a) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, 97 Stat. 1153 (1983), The Report of the President's Commission on Housing (1982), and the recommendations of the National Institute of Building Sciences (National Institute of Building Sciences, *Federal Regulations Impacting Housing and Land Development: Recommendations for Change* 8–12 (1981)).

III. Miscellaneous Information

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when it is assigned, will be announced by a separate notice in the **Federal Register**.

This final rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Consistent with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule does not alter the current practice by which multifamily housing is designed or constructed. This rule will generally reduce the burden of compliance which already exists for both small and large entities. In all cases, multifamily residential structures must be built in compliance with local codes. Upon the effective date of this rule, the Department generally will accept such compliance as satisfying the Department's concerns relating to the health and safety aspects of those structures.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of Rules Docket Clerk at Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule is listed as item H–69–81 in the Department's Semiannual Agenda of Regulations published at 48 FR 47418, 47428 on October 17, 1983 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance does not apply to this Rule.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, Incorporation by reference.

Accordingly, HUD amends 24 CFR Part 200 as follows:

PART 200—INTRODUCTION

Subpart S—Minimum Property Standards

1. Section 200.929 is amended by revising paragraph (b)(2) as follows:

§ 200.929 [Amended]

* * * * *

(b) * * *

(2) MPS for Multifamily Housing 4910.1, 1984 edition. This volume applies to buildings and sites designed and used for normal multifamily occupancy, including both unsubsidized and subsidized insured housing.

* * * * *

2. 24 CFR Part 200 is amended by adding §§ 200.925a, 200.925b, 200.925c and Appendix A to Part 200 as follows:

§ 200.925a Multifamily Minimum Property Standards.

(a) *Construction Standards.* Multifamily properties shall comply with the minimum property standards contained in the handbook identified in § 200.929(b)(2). In addition, each such property shall, for the Department's purposes, comply with:

(1) The applicable State of local building code, if the property is located within a jurisdiction which has a building code accepted by the Secretary under § 200.925a(d); or

(2)(i) The applicable State or local building code, and

(ii) Those portions of the codes identified in § 200.295c which are designated by the HUD Field Office serving the jurisdiction in which the property is to be located, if the property is located in a jurisdiction which has a building code partially accepted by the Secretary; or

(3) The appropriate codes, as identified in § 200.925c(c), if the property is not located within a jurisdiction which has a building code accepted by the Secretary.

(b) *Conflicting Standards.* The minimum property standards contained in the handbook identified in § 200.929(b)(2) do not preempt state or local standards, nor do they alter or affect a builder's obligation to comply with any state or local requirements. However, a property shall be eligible for benefits only if it complies with all applicable minimum property standards, including referenced standards.

(c) *Standard for Evaluating Local Building Codes.* The Secretary shall compare a state or local building code submitted under § 200.925a(d) to the list of construction related areas contained in § 200.925b.

(1) A State or local code will be accepted if it regulates each area on the list.

(2) A State or local building code will be partially accepted if it regulates most of the areas on the list. Provided, however, that no code may be partially accepted if it fails to regulate subareas in more than one of the major areas: fire safety, light and ventilation, structural loads, foundation systems, materials standards, construction components, glass, mechanical, plumbing, electrical and elevators. *See* § 200.925b.

(3) For purposes of this paragraph, a state or local code regulates an area if it establishes a standard concerning that area.

(d) *Review Process and Acceptance*—(1) *Jurisdictions without previously accepted building codes.* The following submission requirements apply to developers and other interested parties in jurisdictions without building codes, jurisdictions with building codes which have never been submitted for acceptance, and jurisdictions with building codes which have been submitted for acceptance and neither accepted nor partially accepted by the Secretary.

(i) Developers or other interested parties must comply with one of the following by the time of application for insurance or other benefits:

(A) The developer or other interested party may choose to comply with the appropriate codes as identified in § 200.925c. If the developer or other interested party so chooses, then the multifamily property shall be constructed in accordance with one of the model codes designated in paragraphs (c)(1), (2) or (3) of § 200.925c and with any other code or codes identified in the same paragraph. In such instances, the developer or other interested party shall notify the Department of the code or group of codes with which it intends to comply by the time of application for insurance or other benefits; or

(B) The developer or other interested party may choose to comply with the State or local building code, if such code is acceptable to the Secretary. To obtain the Secretary's acceptance, the developer or other interested party shall submit the material specified in § 200.925a(d)(1)(ii) to the HUD Field Office serving the jurisdiction in which the property is to be constructed. Such material may be submitted at any time; provided, however, that it must be submitted no later than the time of application for mortgage insurance or other benefits.

(ii) If, under § 200.925a(d)(1)(i)(B), the developer or other interested party chooses to comply with the State or local building code as prescribed in § 200.925a(a)(1), it shall submit the following material to the HUD field Office serving the jurisdiction in which the property is to be constructed:

(A) A copy of the jurisdiction's building code, including all applicable service codes, appendices and referenced standards; and

(B) A copy of the statute, ordinance, regulation, or order establishing the code, if such statute, ordinance, regulation or order is not contained in the building code itself.

However, the developer or other interested party need not submit any document already on file in the Field Office.

(2) *Jurisdictions with previously accepted or partially accepted building codes.* The following submission requirements apply to developers and other interested parties in any jurisdiction with a building code which has been accepted or partially accepted by the Secretary:

(i) At the time of application for mortgage insurance or other benefits, the developer or other interested party shall submit to the HUD Field Office serving the jurisdiction in which the property is to be constructed.

(A) A certificate stating that, since its acceptance by the Secretary, the jurisdiction's building code has not been changed; or

(B) (*1*) A copy of all changes to the jurisdiction's building code, including all applicable service codes and appendices, which have been made since the date of the code's acceptance by the Secretary. However, the developer or other interested party need not submit any part already in the possession of the Field Office; and

(*2*) A copy of the statute, ordinance regulation, or order making such changes in the code.

(3) *Notification of Decision.* The Secretary shall review the material

submitted under § 200.925a(d)(1)(ii) and § 200.925a(d)(2)(i). Following that review, the Secretary shall issue a written notice (except in the case of a previously accepted code which hasn't been changed) to the submitting party stating whether the State or local building code has been accepted, partially accepted, or whether the Secretary's previous acceptance or partial acceptance has been continued; the basis for the Secretary's decision; and a notification of the submitting party's right to present its views concerning the denial of acceptance if the code is neither accepted nor partially accepted. The Secretary may, in his discretion, permit either an oral or written presentation of views.

(i) If a developer or other interested party is notified that a State or local building code has not been accepted, then the multifamily properties eligible for HUD benefits in that jurisdiction shall be constructed in accordance with the appropriate codes indicated in § 200.925c(c). In such instances, the developer or other interested party shall notify the HUD Field Office of the code or codes with which it chooses to comply, in accordance with § 200.925a(d)(1)(i)(A).

(ii) If a developer or other interested party is notified that a State or local building code has been partially accepted, then the multifamily properties eligible for HUD benefits in that jurisdiction shall be constructed in accordance with the applicable State or local building code, plus those additional requirements identified in the written notice issued by the Secretary under § 200.925a(d)(3). The written notice shall identify, in accordance with Appendix J of the Handbook identified in § 200.929(b)(2), those portions of the codes listed at § 200.925c(a) with which the property must comply.

(iii) Each Regional Office will maintain a current list of jurisdictions with accepted building codes and a current list of jurisdictions with partially accepted building codes. The lists will state the most recent date of each code's acceptance or partial acceptance and will be available to any interested party upon request. In addition, the list of jurisdictions whose codes have been partially accepted shall identify those portions of the codes listed at 200.925c(a) with which the property must comply.

§ 200.925b Residential Building Code Comparison Items.

HUD will review each local code submitted under this Chapter to determine whether it regulates all of the following areas and subareas:

(a) *Fire safety.*
(1) Construction types permitted;
(2) Allowable height and area;
(3) Fire separations;
(4) Fire resistance requirements;
(5) Means of egress (number and distance);
(6) Individual unit smoke detectors;
(7) Building alarm systems;
(8) Highrise criteria;
(b) *Light and ventilation.*
(1) Habitable rooms;
(2) Bath and toilet rooms.
(c) *Structural loads.*
(1) Design live loads;
(2) Design dead loads;
(3) Snow loads;
(4) Wind loads.
(5) Earthquake loads (in localities identified by ANSI Standard A 58.1–1982 as being in seismic zones 1, 2, 3 or 4, and Guam.)
(6) Special loads, i.e., soil pressure, railings, interior walls etc.
(d) *Foundation systems.*
(1) Soil tests;
(2) Foundation depths;
(3) Footings;
(4) Foundation materials criteria;
(5) Piles, i.e., materials, allowable stresses, design;
(6) Excavation;
(e) *Materials standards.*
(f) *Construction components.*
(1) Steel;
(2) Masonry;
(3) Concrete;
(4) Gypsum;
(5) Lumber;
(6) Roof construction and covering;
(7) Chimneys and fireplaces.
(g) *Glass.*
(1) Thickness/area requirements;
(2) Safety glazing.
(h) *Mechanical.*
(1) Heating, cooling and ventilation systems;
(2) Boilers and pressure vessels;
(3) Gas, liquid and solid fuel piping and equipment;
(4) Chimneys and vents;
(5) Ventilation (air changes).
(i) *Plumbing.*
(1) Materials standards;
(2) Sizing and installing drainage systems;
(3) Vents and venting;
(4) Traps;
(5) Cleanouts;
(6) Plumbing fixtures;
(7) Water supply and distribution;
(8) Storm drain systems.
(j) *Electrical.*
(1) Wiring design and protection;
(2) Wiring methods and materials;
(3) Equipment for general use;
(4) Special equipment;
(5) Special conditions;
(6) Communication systems.
(k) *Elevators.*
(1) Reference ANSI A17.1;
(2) Acceptance tests and periodic tests.

§ 200.925c Model codes.

(a) *Incorporation by reference.* The following publications are incorporated by reference under 5 U.S.C. 552(a) and 1 CFR Part 51. The incorporation by reference of these publications has been approved by the Director of the Federal Register. The locations where copies of these publications are available are set forth below.

(1) *Model Building Codes.*—(i) *The BOCA Basic/National Building Code/1984,* excluding Article I, Administration and Enforcement, but including Appendices A, C, D and E of the Code. Available from Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60477.

(ii) *Standard Building Code,* 1982 Edition, excluding Chapter 1—Administration, but including appendices A, C, E and M of the Code, and including *Amendments to the Standard Building Code,* 1983 Revisions to the 1982 Edition of the Code. Available from Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213–1206.

(iii) *Uniform Building Code,* 1982 Edition, excluding Part I—Administrative, but including the appendix of the Code. *Uniform Plumbing Code, Uniform Mechanical Code,* 1982 Edition. Available from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(2) *National Electrical Code/*1984 Edition, including appendices. Available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(b) *Model Code Compliance Requirements.* (1) When a multifamily property is to comply with one of the model building codes set forth in § 200.925c(a)(1), the following requirements of those model codes shall not apply to those properties:

(i) Those provisions of the model codes that do not pertain to residential buildings;

(ii) Those provisions of the model codes that establish energy requirements for multifamily structures; and

(iii) Those provisions of the model codes that require or allow the issuance of permits of any sort.

(2) Where the model codes set forth in § 200.925c(a)(1) designate a building,

fire, mechanical, plumbing or other official, the Secretary's designee in the HUD Field Office serving the jurisdiction in which the property is to be constructed shall act as such official.

(c) *Designation of Model Codes.* When a multifamily property is to comply with a model code, it shall comply with one of the model codes designated in paragraphs (c) (1), (2) or (3) of this section and with any other code or codes identified in the same paragraph. In addition, such property shall comply with all of the standards which are incorporated into such code or codes by reference. The developer or other interested party shall notify the Department of the code or group of codes with which it intends to comply by the time of application for insurance or other benefits.

(1) *The BOCA Basic/National Building Code/1984.*

(2) *Standard Building Code/1982* and the *National Electrical Code/1984.*

(3) *Uniform Building, Plumbing and Mechanical Codes/1982* and the *National Electrical Code/1984.*

Appendix A to Part 200—Standards Incorporated by Reference in the Minimum Property Standards for Multifamily Housing (HUD 4910.1)

The following publications are incorporated by reference in the HUD Minimum Property Standards (MPS). The MPS are in turn incorporated by reference in 24 CFR Part 200, Subpart S. The MPS may be purchased from the U.S. Government Printing Office, Washington, DC 20402. It is also available for public inspection at the HUD Program Information Center, Room 1104, 451 Seventh Street, SW, Washington, DC, at each HUD Regional, Area, and Service Office, and at the Office of the Federal Register, 1100 L Street, NW, Washington, DC. The individual standards referenced in the MPS are available at the addresses contained in the following table. They are also available for public inspection at HUD, Manufactured Housing and Construction Standards Division, Room 3232, 451 Seventh Street, SW, Washington, DC and the Office of the Federal Register.

Aluminum Association, 818 Connecticut Avenue, NW, Washington, DC 20006.
- AA-ASM 35-80 Specifications for Aluminum Sheet Metal Work in Building Construction

American Concrete Institute, P.O. Box 19150, Redford Station, Detroit, MI 48219.
- ACI 211.1-81 Standard Practice for Selecting Proportions for Normal, Heavyweight, and Mass Concrete
- ACI 211.2-81 Standard Practice for Selecting Proportions for Structural Lightweight Concrete
- ACI 213 R-79 Guide for Structural Lightweight Concrete
- ACI 214-77 Recommended Practice for Evaluation of Compressive Test Results of Field Concrete
- ACI 301-72 (R81) Specifications for Structural Concrete for Buildings
- ACI 302.1R-80 Guide for Concrete Floor and Slab Construction
- ACI 304-73 (R78) Recommended Practice for Measuring, Mixing, Transporting and Placing Concrete
- ACI 305 R-77 Hot Weather Concreting
- ACI 306 R-78 Cold Weather Concreting
- ACI 311.4R-80 Guide for Concrete Inspection
- ACI 315 R-80 Guide for Detailing of Concrete Reinforcement
- ACI 318-77 Building Code Requirements for Reinforced Concrete, with 1980 Supplement
- ACI 322-72 Structural Plain Concrete
- ACI 347-78 Recommended Practice for Concrete Formwork
- ACI 504 R-77 Guide to Joint Sealants for Domestic Structures
- ACI 506-66 (R78) Recommended Practice for Shotcreting
- ACI 515 R-79 Recommended Practice for the Application of Paint to Concrete Surfaces
- ACI 533.1R-69 Quality Standards and Tests for Precast Concrete Wall Panels
- ACI 533.2R-69 Selection and Use of Materials for Precast Concrete Wall Panels
- ACI 533.3R-70 Fabrication, Handling and Erection of Precast Concrete Wall Panels

American National Standards Institute, 1430 Broadway, New York, New York 10018.
- ANSI A108.1-76 Installation of Glazed Wall Tile, Ceramic Mosaic Tile, Quarry Tile and Paver Tile with Portland Cement Mortar
- ANSI A117.1-80 Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People
- ANSI/AHA A135.4-82 Basic Hardboard
- ANSI A137.1-80 Ceramic Tile
- ANSI A156.2-76 Locks and Lock Trim
- ANSI A161.1-80 Construction and Peformance Standards for Kitchen and Vanity Cabinets
- ANSI A208.1-79 Mat Formed Wood Particleboard
- ANSI Z34.1-82 American National Standard for Certification—Third—Party Certification Program

American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.
- ASTM C 12-81 Installing Vitrified Clay Pipe Lines
- ASTM C 208-72 (1982) Insulating Board (Cellulosic Fiber), Structural and Decorative
- ASTM C 209-72 Insulating Board (Cellulosic Fiber), Structural and Decorative
- ASTM C 220-77 Flat Asbestos-Cement Sheets
- ASTM C 221-81 Corrugated Asbestos-Cement Sheets
- ASTM C 223-78 Asbestos-Cement Siding
- ASTM C 509-79 Cellular Elastomeric Preformed Gasket and Sealing Material
- ASTM C 516-80 Vermiculite Loose Fill Thermal Insulation
- ASTM C 549-81 Perlite Loose Fill Insulation
- ASTM C 726-81 Mineral Fiber and Mineral Fiber Rigid Cellular Polyurethane Composite Roof Insulation Board
- ASTM C 754-82 Installation of Steel Framing Members to Receive, Screw Attached Gypsum Wallboard, Backing Board or Water Resistant Backing Board
- ASTM C 834-76 (1981) Latex Sealing Compounds
- ASTM C 841-81 Installation of Interior Lathing and Furring
- ASTM C 842-79 Application of Interior Gypsum Plaster
- ASTM C 843-76 Application of Gypsum Veneer Plaster
- ASTM C 844-79 Application of Gypsum Base to Receive Gypsum Veneer Plaster
- ASTM C 846-76 Application of Structural Insulating Board (Fiberboard) Sheathing
- ASTM C 926-81 Application of Portland Cement Based Plaster
- ASTM D 1037-78 Wood-Base Fiber and Particle Panel Materials
- ASTM D 1557-78 Moisture-Unit Weight Relations of Soils, and Soil-Aggregate Mixtures Using 10-lb (4.5 kg) Rammer and 18-in. (457-mm) Drop
- ASTM D 2316-75 (1980) Installing Bituminized Fiber Drain and Sewer Pipe
- ASTM D 2321-74 (1980) Underground Installation of Flexible Thermoplastic Sewer Pipe
- ASTM D 3656-78 Insect Screening and Louver Cloth Woven From Vinyl Coated Glass Fiber Yarn
- ASTM D 3679-81a Rigid Polyvinyl Chloride (PVC) Siding
- ASTM E 72-80 Standard Methods of Conducting Strength Tests of Panels for Building Construction
- ASTM E 283-73 Rate of Air Leakage Through Exterior Windows, Curtain Walls, and Doors
- ASTM E 330-79 Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference
- ASTM E 331-70 Water Penetration of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference
- ASTM E 380-82 Metric Practice

American Society of Heating, Refrigerating and Air Conditioning Engineers, 345 East 47th Street, New York, New York 10017.
- ASHRAE Handbook of Fundamentals—1981
- ASHRAE Handbook of Applications—1978
- ASHRAE Handbook of Equipment—1979
- ASHRAE Handbook of Systems—1980
- ASHRAE GRP 158-1979 Cooling and Heating Load Calculations Manual

American Welding Society, 550 NW Le Jeune Road, Miami, Florida 33126.
- ANSI/AWS D1.1-82 Structural Welding Code
- ANSI/AWS D1.4-79 Structural Welding Code—Reinforcing Steel

Architectural Aluminum Manufacturers Association, 35 East Wacker Drive, Chicago, Illinois 60601.
- AAMA 302.9-77 Aluminum Prime Windows (ANSI A134.1)

AAMA SG–1–76 Specifications for Dense Rubber-Like Compression Gasket Materials
AAMA 402.9–77 Aluminum Sliding Glass Doors and Frames (ANSI A134.2)
AAMA 804.1–76 Ductile Back-Bedding Glazing Tape for Use with Architectural Aluminum
AAMA 807.1–76 Cured Rubber Back-Bedding Glazing Tapes
AAMA 809.2–76 Non-Drying Sealants for Use with Architectural Aluminum
AAMA 1002.10–83 Aluminum Insulating Storm Products
AAMA 1102.7–77 Aluminum Storm Doors and Frames
AAMA 1402.3–82 Aluminum Siding
AAMA 1403.3–81 Installation Specifications for Residential Aluminum Siding
AAMA 1502.6–77 Voluntary Standards and Tests of Residential Insulating Windows and Sliding Glass Doors
AAMA 1502.7–81 Voluntary Test Method for Condensation Resistance of Windows, Doors and Glazed Wall Sections
AAMA 1503.1–80 Thermal Transmittance of Windows, Doors, and Glazed Wall Sections
AAMA 1504–83 Thermal Performance of Residential Windows and Sliding Glass Doors

The Asphalt Institute, Asphalt Institute Building, College Park, Maryland 20740.
MS–1–81 Thickness Design-Full-Depth Asphalt Pavement Structures for Highways and Streets

Asphalt Roofing Manufacturers Association, 1800 Massachusetts Avenue, NW, Washington, DC 20036.
Residential Asphalt Roofing Manual—1980

Carpet and Rug Institute, 301 Holiday Avenue, Box 2048, Dalton, Georgia 30720.
Specifiers Guide for Contract Carpet Installations, 1980

Council of American Building Officials, Suite 201, 5205 Leesburg Pike, Falls Church, Virginia 22041
Model Energy Code—1983 Edition

Department of Agriculture, Publications Division, Office of Government Affairs, 14th and Independence Avenue, SW, Washington, DC 20050.
Agriculture Handbook No. 72—Wood Handbook—1974
Home and Garden Bulletin No. 64—Subterranean Termites—1979
Home and Garden Bulletin No. 73—Wood Decay in Houses
How to Prevent and Control It—1977

Department of Commerce, National Bureau of Standards, Washington, DC 20234.
NRS SP 330 The International System of Units—1977

Department of Defense, Naval Publication and Forms Center, 5801 Taber Road, Philadelphia, PA 19120.

Federal Specifications:
L–S–125B Screening, Insect, Non-metallic
L–F–001641 (GSA/FSS) Floor Covering, Translucent or Transparent Vinyl Surface with Backing and Amendment 1, 1971
L–F–475A Backed Vinyl Plastic Sheet or Tile
L–F–00450A (GSA/FSS) Flooring, Vinyl Plastic
DD–G–451D Glass, Float or Plate, Sheet, Figured (Flat, for Glazing, Mirrors and Other Uses)
HH–I–515D Insulation Thermal (Loose Fill for Pneumatic or Poured Application) Cellulosic or Wood Fiber
HH–I–521F Insulation Blankets, Thermal (Mineral Fiber, for Ambient Temperatures)
HH–I–524C Insulation Board, Thermal (Polystyrene)
HH–I–525A Insulation Board, Thermal (Cork)
HH–I–530B Insulation Board, Thermal, Unfaced, Polyurethane or Polyisocyanurate
HH–I–551E Insulation Block and Boards, Thermal (Cellular Glass)
HH–I–558B Insulation Blocks, Boards, Blankets, Felts Sleeving (Pipe and Tube Covering), and Pipe Fitting Covering, Thermal (Mineral Fiber, Insulation Type)
HH–I–1030B Insulation, Thermal (Mineral Fiber, for Pneumatic or Poured Application)
HH–I–1972/Gen; 1, 2, 3, 4, 5, & 6 Insulation Board, Thermal, Faced, Polyurethane and Polyisocyanurate
SS–S–346C Siding (Shingles, Clapboards, and Sheets) Asbestos-Cement
SS–T–312B Tile, Floor: Asphalt, Rubber, Vinyl-Asbestos
TT–C–598B Caulking Compound, Oil and Resin Base Type (for Masonry and Other Structures)
TT–S–227B Sealer Compound; Rubber-Base Two Component (for Caulking, Sealing) and Glazing in Building Construction
TT–S–230A Sealing Compound; Synthetic Rubber Base, Single Component, Chemically Curing for Caulking, Sealing, and Glazing in Building Construction
TT–S–001543A (COM/NBS) Sealing Compound: Silicone Rubber Base (for Caulking, Sealing, and Glazing in Buildings and Other Structures)
TT–S–001657A Ceiling Compound: Single Component Butyl Rubber Based Solvent Release Type for Buildings and Other Types of Construction
LLL–I–535B Insulation Board, Thermal, Cellulosic Fiber
LLL–F–1238A Floor, Covering Linoleum

Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410
Handbooks:
4940.1–10/72 Minimum Property Standards for Semi-private Swimming Pools and Wading Pools
4940.2–8/73 Minimum Design Standards for Community Water Supply
4940.3–11/72 Minimum Design Standards for Community Sewage Systems
4950.1–8/79 Technical Suitability of Products Program, Technical and Processing Procedures

Use of Materials Bulletins:
17e Concrete Roofing Tile—7/17/74
25d Power Driven, Mechanically Driven and Manually Driven Fasteners—9/5/73
38h Grademarking of Lumber—7/31/79
44c HUD/FHA Standard for Carpet and Carpet Certification Program—2/22/78 (Plus Addendum 1 & 2)
48 Labels of Independent Programs for Certifying Pressure-Treated Lumber and Plywood (PLUS 5 SUPPLEMENTS)—11/15/67
52a Quality Certification and Labelling for Wood Flush Doors—10/7/75
58a Acrylic Plastic Sheets for Glazing—9/2/75
60 Field Glued Plywood & Wood Frame Structural Floor Systems—12/9/70
62a Factory-Applied Laminated Roofing Systems Based on Chlorosulfonated Polyethylene (CSPE)—11/16/72
64b Textured Plywood Panel Siding—8/13/75
65 Controlled Density Cellular Concrete Floor Fill—10/11/73
66a Plywood Combination Subfloor/Underlayment Floor Panels—12/6/78
67 Polycarbonate Plastic Sheets for Glazing—9/3/75
69 Self Adhering Vinyl Asbestos Floor Tile—1/6/77
70a Particleboard Interior Stair Treads and Certification Program—5/19/82
71 Polystyrene Foam Insulation Sheathing Board—1/10/77
72 HUD Standard for Carpet Cushion—2/6/80
76 Chlorinated Poly (Vinyl Chloride) CPVC and Polybutylene (PB) Hot and Cold Water Distribution—4/25/78
77a Cast Iron Sanitary Drainage System with Hubless Pipe and Fittings—3/28/80
78 Polyethylene (PE), Acrylonitrile-Butadiene-Styrene (ABS), Poly Vinyl Chloride (PVC) and Polybutylene (PB) Plastic Piping for Domestic Cold Water Service—4/25/78
79a Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings—3/7/82
80 Spray Applied Cellulosic Thermal Insulation—10/31/79

Commercial Standards:
CS 138–55 Insect Wire Screening
CS 242–62 1¾" Thick Steel Doors and Frames

Federal Specifications:
DD–G–1403B Glass, Plate (Float), Sheet, Figured, and Spandrel (Heat Strengthened and Fully Tempered)
HH–I–526C Insulation Board, Thermal (Mineral Fiber)
HH–I–529B Insulation Board, Thermal (Mineral Aggregate)
HH–I–574B Insulation, Thermal (Perlite)
HH–I–585C Insulation, Thermal (Vermiculite)
HH–I–1252B Insulation, Thermal Reflective, (Aluminum Foil)

Product Standards:
PS 1–83 Plywood
PS 4–66 Standard Stock Light Duty 1⅜ and 1¾-inch Flush-Type Interior Steel Doors and Frames, etc.
PS 27–70 Mosaic-Parquet Hardwood Slat Flooring
PS 57–73 Cellulosic Fiber Insulation Board
PS 60–73 Hardboard Siding

Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460
EPA 430/9–74–007 Manual of Individual Water Supply Systems (Reprinted 1975) (PB 258402)
Fir and Hemlock Door Association, Yeon Building, Portland, Oregon 97204
FHDA 7–79 Fir and Hemlock Door Association Standard
Flat Glass Marketing Association, White Lakes Professional Building, 3310 Harrison Street, Topeka, KS 66611
Glazing Manual—1980
Glazing Sealing Systems Manual—1970
Hardwood Plywood Manufacturers Association, 1825 Michael Faraday Drive, Reston, Virginia 22090
ANSI/HPMA LHF–1982 Laminated Hardwood Flooring
National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, DC 20418
Criteria for Selection and Design of Residential Slabs-on-Ground, Report No. 33, Publication 1571 (1968), Building Research Advisory Board
National Association of Home Builders, Research Foundation, 627 Southlawn Lane, Rockville, Maryland 20850
Insulation Manual for Homes and Apartments—1979
National Fire Protection Association, Batterymarch Park, Quincy, MA 02269
NFPA 54–80 National Fuel Gas Code (ANSI Z223.1—1980)
NFPA 58–79 Standard for the Storage and Handling of Liquefied Petroleum Gases
National Oak Flooring Manufacturers Association, 804 Sterick Building, Memphis, Tennessee 38103
Official Grading Rules for Oak, Beech, Birch, Hard Maple and Pecan (OFGR/Vol. 1, No. 1/March 1977)
Hardwood Flooring Finishing/Refinishing Manual, 1983
Hardwood Flooring Installation Manual, 1983
National Roofing Contractors Association, 8600 Bryn Mawr Avenue, Chicago, Illinois 60631
NRCA Roofing and Waterproofing Manual, 1981
National Sash and Door Jobbers Association, 20 North Wacker Drive, Chicago, Illinois 60606
NSDJA 1–79 Interior Pre-Hung Wood Door Units
National Terrazzo and Mosaic Association, 3166 Des Plaines Avenue, Suite 15, Des Plaines, Il 60018
NTMA Specifications, Details and Technical Data, 1981
National Woodwork Manufacturers Association, 400 West Madison Street, Chicago, Illinois 60606
IS 1–80 Industry Standard for Wood Flush Doors
IS 2–80 Industry Standard for Wood Window Units
IS 3–70 Industry Standard for Wood Sliding Patio Doors
IS 5–73 Industry Standard for Ponderosa Pine Doors
Post-tensioning Institute, 382 Springfield Avenue, Summit, New Jersey 70901–2782
Design and Construction of Post-tensioned Slabs-on-Ground—1980
Prestressed Concrete Institute, 20 North Wacker Drive, Chicago, Illinois 60606
PCI MNL 116 Manual for Quality Control for Plants and Production of Precast Prestressed Concrete Products—1977
PCI MNL 117 Manual of Quality Control for Plants and Production of Architectural Precast Concrete Products—1977
PCI MNL 121 Manual for Structural Design of Architectural Precast Concrete—1977
Resilient Floor Covering Institute, 966 Hungerford Drive, Suite 12–B, Rockville, Maryland 20850
Recommended Installation Specifications for Vinyl Asbestos, Solid Vinyl and Asphalt Tile Floorings, 1978
Safety Glazing Certification Council, 1640 West 32nd Avenue, Hialeah, Florida 33012
Certified Products Directory
Southern California Association of Cabinet Manufacturers, 1933 South Broadway, L. 39, Los Angeles, California 90007
Certified Construction Standards and Specifications, Guide for Uniform Cabinet Specifications—1973
Tile Council of America, Inc., Box 326, Princeton, New Jersey 08540
Handbook for Ceramic Tile Installation—1984
Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062
Electrical Appliance and Utilization Equipment Directory, 1982
Water Quality Association, 477 East Butterfield Road, Lombard, Illinois 60148
WQA S–100 Water Softeners—1975
WQA S–200 Water Filters—1973
Wood Moulding and Millwork Producers, P.O. Box 25278, Portland, OR 97225
WM 3–79 Exterior Wood Door Frames

(12 U.S.C. 1735f–4; sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: April 24, 1984.

Janet Hale,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84–11709 Filed 4–30–84; 8:45 am]
BILLING CODE 4210–27–M

federal register

Tuesday
May 1, 1984

Part VI

Department of Energy

Federal Energy Regulatory Commission

NGPA Notices of Determination by Jurisdictional Agencies

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1110]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 25, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83–50–000, 49 FR 7109–13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC FORM 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New res. on old OCS lease
Section 103: New onshore production well
Section 107–DP: 15,000 ft or deeper
107–GB: Geopressured brine
107–DV: Devonian shale
107–CS: Coal seam gas
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1110
ISSUED APRIL 25, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NORTH DAKOTA INDUSTRIAL COMMISSION									
-SUN EXPLORATION & PRODUCTION CO				RECEIVED: 04/04/84		JA: ND			
8427388	912	3305301701		102-2		GARRISON STATE IV NO 2	ELK	199.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED: 04/04/84		JA: NM			
8427324		3004520953		108-PB		CANEPLE GAS COM "B" #1	BLANCO	.0.0	EL PASO NATURAL G
8427325		3004511798		108-PB		GALLEGOS CANYON UNIT #255	PINON	0.0	EL PASO NATURAL G
8427326		3004511854		108-PB		GALLEGOS CANYON UNIT #256	PINON	0.0	EL PASO NATURAL G
8427327		3004508552		108-PB		HEATH GAS COM "F" #1	BLANCO	0.0	EL PASO NATURAL G
8427329		3004508104		108-PB		MARTINEZ GAS COM "D" #1	AZTEC	0.0	EL PASO NATURAL G
8427328		3004521079		108-PB		NYE GAS COM "C" #1	BLANCO	0.0	EL PASO NATURAL G
8427321		3001524176		102-3		STATE MS GAS COM #1	UND MORROW	2450.0	TRANSWESTERN PIPE
-ARCO OIL AND GAS COMPANY				RECEIVED: 04/04/84		JA: NM			
8427302		3002527851		108		MCDONALD WN STATE WELL #29	JALMAT YATES-SEVEN RI	1.6	EL PASO NATURAL G
8427301		3002527869		108		MCDONALD WN STATE WELL #30	JALMAT YATES-SEVEN RI	1.6	EL PASO NATURAL G
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 04/04/84		JA: NM			
8427314		3000500000		108		STATE 5-8-33 #4	CHAVEROO (SAN ANDRES)	6.5	CITIES SERVICE OI
-COASTAL OIL & GAS CORP				RECEIVED: 04/04/84		JA: NM			
8427308		3002528452		103		STATE "22" #2	TULK (PENN)	40.0	WARREN PETROLEUM
8427307		3002528311		103		STATE "4" #2	FLYING "M" (SAN ANDRE	6.0	WARREN PETROLEUM
-EL PASO NATURAL GAS COMPANY				RECEIVED: 04/04/84		JA: NM			
8427304		3004506123		108		BROOKHAVEN COM E #6	SOUTH BLANCO - PICTUR	17.0	EL PASO NATURAL G
8427309		3003906978		108		RINCON UNIT #53	SOUTH BLANCO - PICTUR	14.0	EL PASO NATURAL G
8427299		3003907069		108		SAN JUAN 28-7 UNIT #80	SOUTH BLANCO - PICTUR	17.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED: 04/04/84		JA: NM			
8427300		3002511041		108		LIBERTY ROYALTIES #5	JALMAT TANSILL YATES	12.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 04/04/84		JA: NM			
8427318		3002502863		108		E VAC GB/SA UNIT TR 2469 #001	VACUUM GB/SA	1.0	EL PASO NATURAL G
8427317		3002527418		108		E VAC GB/SA UNIT TRACT 1881 #001	VACUUM GB/SA	0.0	EL PASO NATURAL G
-SHELL OIL CO				RECEIVED: 04/04/84		JA: NM			
8427298		3002500000		108		STATE C #3	EUMONT YATES SEVEN RI	15.7	PHILLIPS PETROLEU
8427312		3002500000		108		STATE H #6	EUMONT YATES SEVEN RI	21.1	PHILLIPS PETROLEU
8427311		3002527953		103		STATE VI #1	NORTH VACUUM - MORROW	730.0	
-SOUTHLAND ROYALTY CO				RECEIVED: 04/04/84		JA: NM			
8427315		3002527270		108		SCHARB "8" #1	SCHARB	1.8	WARREN PETROLEUM
8427313		3002527377		108		SCHARB "9" #1	SCHARB	2.8	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED: 04/04/84		JA: NM			
8427306		3002500000		103		EVA OWENS #2	DRINKARD	74.0	GETTY OIL CO
8427303		3002500000		103		S E CONE #5	WANTZ (GRANITE WASH)	53.0	WARREN PETROLEUM
-TENNECO OIL COMPANY				RECEIVED: 04/04/84		JA: NM			
8427335		3004509491		108-PB		AZTEC COM 3 #1	AZTEC	0.0	EL PASO NATURAL G
8427331		3004500000		108-PB		JACQUES #1	BLANCO	0.0	SOUTHERN UNION CA
8427333		3004500000		108-PB		STATE COM K #11	BLANCO	0.0	EL PASO NATURAL G
8427330		3004511775		108-PB		STATE COM LL #12	BLANCO	0.0	EL PASO NATURAL G
8427332		3004511775		108-PB		STATE COM LL #12	BLANCO	0.0	EL PASO NATURAL G

BILLING CODE 6717-01-M

VOLUME 1110

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8427334		3004511775		108-PB		STATE COM LL #12	BLANCO	0.0	EL PASO NATURAL G
8427305		3004525802		103		STATE M 1E	BASIN DAKOTA	78.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:	04/04/84	JA: NM			
8427319		3004512158		108		NEW MEXICO COM "P" WELL #1	BASIN DAKOTA	14.0	NORTHWEST PIPELIN
8427320		3004512158		108		NEW MEXICO COM "P" WELL #1	BASIN DAKOTA	14.0	NORTHWEST PIPELIN
-UNICON PRODUCING CO				RECEIVED:	04/04/84	JA: NM			
8427336		3004511201		108-PB		WRIGHT STATE COM #1	BLANCO	0.0	
-V H WESTBROOK				RECEIVED:	04/04/84	JA: NM			
8427322		3002500000		108		STATE C #2	SAUNDERS PERMO UPPER	7.1	WARREN PETROLEUM
-W M GALLAWAY				RECEIVED:	04/04/84	JA: NM			
8427316		3003922048		108		DAVIS #3	BLANCO MESAVERDE	5.0	NORTHWEST PIPELIN
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	04/04/84	JA: NM			
8427310		3002506731		108		EUBANK #5	BLINEBRY	17.9	EL PASO NATURAL G
-WARRIOR INC				RECEIVED:	04/04/84	JA: NM			
8427323		3002504374		108		STATE WE 'I' 32-1	EUMONT-YATES-7 RIVERS	0.0	WARREN PETROLEUM
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-ALVIN PETROLEUM INC				RECEIVED:	04/04/84	JA: OK			
8427499	27447	3511100000		103		GATWICK/WESTMORELAND #3#111-81685-1	SCHULTER FIELD	7.3	SCHULTER GATHERIN
-AMOCO PRODUCTION CO				RECEIVED:	04/04/84	JA: OK			
8427406	27100	3505121407		103		M A ROBINSON UNIT #1	S E LAVERTY - HOGS HO	18.0	
8427495	25688	3503920866		102-2		RALPH CRALL UNIT "B" #2	NORTH WEATHERFORD	365.0	SOUTHERN NATURAL
-AMQUEST CORP				RECEIVED:	04/04/84	JA: OK			
8427404	27113	3513921734		103		PLUNK-MENDENHALL UNIT WELL #2	WEST DOMBEY	708.0	PHILLIPS PETROLEU
-AN-SON CORPORATION				RECEIVED:	04/04/84	JA: OK			
8427502	27035	3501722641		103		SPEARS #2-18	SW CALUMET	720.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/04/84	JA: OK			
8427419	27164	3509335420		108		C A SEVERN UNIT #1	CHESTER WEST	18.3	ANR PIPELINE CO
8427418	27167	3509500000		108		W Y DILLEY #4	MADILL	5.0	PIONEER GAS PRODU
8427416	27169	3509500741		108		W Y DILLEY #5	MADILL	3.7	PIONEER GAS PRODU
8427417	27168	3509500738		108		W Y DILLEY #7	MADILL	5.5	PIONEER GAS PRODU
-ARKLA EXPLORATION COMPANY				RECEIVED:	04/04/84	JA: OK			
8427424	27396	3503920925		103		CORNELL #1-24	WEATHERFORD	730.0	ARKANSAS LOUISIAN
-ARKOMA PRODUCTION CO				RECEIVED:	04/04/84	JA: OK			
8427443	27313	3512121093		103		POTICHNY #2	WILBURTON	1000.0	ARKANSAS LOUISIAN
-BEARD OIL COMPANY				RECEIVED:	04/04/84	JA: OK			
8427470	27337	3511922325		103		PITTS #1	S E MULHALL	30.0	
-C & S EXPLORATION INC				RECEIVED:	04/04/84	JA: OK			
8427475	27316	3513520113		103		CHISUM #1-22	KINTA	54.0	ARKANSAS LOUISIAN
-C J CASSELMAN				RECEIVED:	04/04/84	JA: OK			
8427429	26214	3511124747		103		SPARKS #1	MORRIS	18.3	PHILLIPS PETROLEU
-CABOT PETROLEUM CORP				RECEIVED:	04/04/84	JA: OK			
8427504	27332	3513900405		108		CALVERT #4		14.0	NORTHERN NATURAL
-CACTUS ENERGY				RECEIVED:	04/04/84	JA: OK			
8427478	14660	3507322687		103		JIRIK #1		0.0	DALCO PETROLEUM U
-CANADIAN EXPLORATION CORP				RECEIVED:	04/04/84	JA: OK			
8427506	26971	3501722094		103		HORLIVY #19-1	NORTHWEST MUSTANG	12.0	PHILLIPS PETROLEU
-CIMARRON PETROLEUM CORPORATION				RECEIVED:	04/04/84	JA: OK			
8427436	21342	3511123861		102-2		NEUSTADT #171 CPC		90.0	
8427451	23179	3500722344		102-2		WALLACE #181-1 CPC		21.6	PHILLIPS PETROLEU
-CLYDE M BECKER				RECEIVED:	04/04/84	JA: OK			
8427412	27279	3507100000		108		COPELAND #1		3.9	CITIES SERVICE OI
8427411	27278	3507100000		108		SCHMITT #3		5.7	CITIES SERVICE OI
8427413	27276	3507100000		108		VICKERY #3		11.2	CITIES SERVICE OI
-CORDOVA OIL & GAS INC				RECEIVED:	04/04/84	JA: OK			
8427428	26297	3504900000		108		RICHARDSON "D" #6	NORTH HOOVER	1.0	AMINOIL USA INC
-CORONADO PETROLEUM CORP				RECEIVED:	04/04/84	JA: OK			
8427425	27395	3507122521		103		CLAYBAKER #1-5	SOUTHEAST BLACKWELL	3.7	CITIES SERVICE OI
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	04/04/84	JA: OK			
8427500	27407	3505300000		103		FLORA #1		0.0	UNION TEXAS PRODU
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	04/04/84	JA: OK			
8427497	27206	3504721802		108		SCHWEAR #1		9.0	ARKANSAS LOUISIAN
-DIAMOND CHEMICALS CO				RECEIVED:	04/04/84	JA: OK			
8427453	25503	3512920991		102-2		C R WICKHAM #1		0.0	
8427434	25504	3512920840		102-2		MAISIE FLICK 1-32	RED FORK	0.0	TRANSWESTERN PIPE
-DINERO OPERATING CO				RECEIVED:	04/04/84	JA: OK			
8427442	27193	3505920803		103		SCHOOL LAND #2	LOVEDALE (CHESTER)	1372.0	NORTHERN NATURAL
-DYCO PETROLEUM CORPORATION				RECEIVED:	04/04/84	JA: OK			
8427414	27262	3500320558		103		BONTRAGER 1-T	DACOMA SOUTH	6.0	DELHI GAS PIPELIN
-EARLSBORO ENERGIES CORP				RECEIVED:	04/04/84	JA: OK			
8427409	27284	3515121421		103		SLAVICK #1-35	OAKDALE	100.0	AMINOIL USA INC
-EDINGER INC				RECEIVED:	04/04/84	JA: OK			
8427484	27366	3500300000		108		RYEL B #1	RINGWOOD	10.0	PANHANDLE EASTERN
-EL DORADO DRILLING INC				RECEIVED:	04/04/84	JA: OK			
8427493	25694	3507122711		102-2	103	ROLLY #19		47.1	SUN GAS CO
-ENERGY EXCHANGE CORP				RECEIVED:	04/04/84	JA: OK			
8427405	27112	3501121873		103		LEISHER #1	SOONER TREND	125.0	PHILLIPS PETROLEU
-ENERGY SERVICES INC				RECEIVED:	04/04/84	JA: OK			
8427450	21698	3505121249		102-4		LONG #18-1	TUTTLE	219.0	MUSTANG FUEL CORP
-EXXON CORPORATION				RECEIVED:	04/04/84	JA: OK			
8427455	25452	3500920551		102-2		BOB J FELTON GAS UNIT #1	ELK CITY	1411.0	
-F C D OIL CORP				RECEIVED:	04/04/84	JA: OK			
8427480	27287	3508720909		103		CHRISTIAN #1	FLINT CREEK	38.0	WARREN PETROLEUM
8427410	27286	3508720936		103		CLINGMAN 1-12	N LINDSEY	65.3	WARREN PETROLEUM
-FORTUNA ENERGY CORP				RECEIVED:	04/04/84	JA: OK			
8427492	25182	3512121030		102-4		ANDERSON #1	SOUTH ALDERSON	300.0	OKLAHOMA GAS & EL
-GLEN BARRETT				RECEIVED:	04/04/84	JA: OK			
8427448	26908	3512300000		103		LINDA #1	BYNG	478.1	ARKANSAS LOUISIAN
8427457	26910	3512322594		103		TIM #2	BYNG	0.0	ARKANSAS LOUISIAN
-GOLDENSTERN MELVIN				RECEIVED:	04/04/84	JA: OK			
8427468	27350	3507100000		108		KEMNITZ #2	NORTHWEST GARRETT	0.0	CITIES SERVICE OI
-GREEN OPERATING CO				RECEIVED:	04/04/84	JA: OK			
8427423	27397	3508700000		108		AMBRISTER #1	CRINER	2.5	SUN EXPLORATION &
-GREENWOOD HOYET				RECEIVED:	04/04/84	JA: OK			
8427427	26497	3510522545		108		JE JOHNSON #1 26497	WOODY	40.0	A G SYSTEMS
-INEXCO OIL COMPANY				RECEIVED:	04/04/84	JA: OK			
8427489	25570	3503920917		102-2		U S A MILFORD #1-30	N E CARPENTER	1000.0	TRANSWESTERN PIPE
-JOHN P DOWNEY INC				RECEIVED:	04/04/84	JA: OK			
8427431	25533	3508322191		102-2		STANBROUGH #1		300.0	BUCKEYE NATURAL G
-JONES & PELLOW OIL CO				RECEIVED:	04/04/84	JA: OK			
8427479	27306	3501700000		108		BRANDLEY #22-1	S W KINGFISHER	11.2	MUSTANG FUEL CORP
8427476	27309	3509300000		108		RAMON JORDAN #1	ROSCOE	13.5	ANR PIPELINE CO
8427477	27307	3507300000		108		SCHEIHING #1	SE PLEASANT RIDGE	9.7	CONOCO INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-LADD PETROLEUM CORPORATION				RECEIVED:	04/04/84	JA: OK
8427483	27145	3504721794		108		CHARLTON-HOPWOOD #2
8427503	18962	3504700000		108-PB		ROGERS #1
8427498	18969	3504721793		108-PB		WILER #2
-LAEL OIL & GAS PRODUCTION CO				RECEIVED:	04/04/84	JA: OK
8427467	27351	3510121770		103		STEVENS #2
-LINCOLN ROCK CORP				RECEIVED:	04/04/84	JA: OK
8427491	25223	3508520704		102-4		BEDO #3
-M M RESOURCES INC				RECEIVED:	04/04/84	JA: OK
8427439	27379	3504723457		103		ATHEY #1
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	04/04/84	JA: OK
8427445	27359	3507323878		103		JOHN FRANCIS #1
8427456	26009	3515121399		103		MCDOWELL #2-6
-MIDWEST ENTERPRISES INC				RECEIVED:	04/04/84	JA: OK
8427471	27336	3508322134		103		LENORA DOAK #1-6
-NOVA ENERGY CORPORATION				RECEIVED:	04/04/84	JA: OK
8427432	25532	3503920931		102-2		BERGMAN #1-26
8427433	25531	3503920932		102-2		REIMAN #1-27
-OKLA OIL & GAS ROYALTIES INC				RECEIVED:	04/04/84	JA: OK
8427459	10987	3505121077		102-4		DUNNELL #4
-OKLAND DEVELOPMENT CORP				RECEIVED:	04/04/84	JA: OK
8427486	27440	3510121415		103		DURANT #5
-OLD DOMINION OIL CORP				RECEIVED:	04/04/84	JA: OK
8427505	27036	3515321422		103		HOSIER #1-5
-ONEOK RESOURCES CO				RECEIVED:	04/04/84	JA: OK
8427440	27439	3512121089		103		BURR #5
-PALM-COOK PRODUCTION CO				RECEIVED:	04/04/84	JA: OK
8427422	27436	3514723484		103		BUCKMINSTER #23
8427421	27438	3504723517		103		LONG #15
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/04/84	JA: OK
8427465	15266	3513921544		102-4		BEAMAN A #1
8427426	27389	3513900000		108		BERGNER B #1
8427483	25368	3513900000		108		ELI #2
8427415	27261	3513921309		108		ORV #2
-PLATEAU EXPLORATION & PRODUCTION CO				RECEIVED:	04/04/84	JA: OK
8427438	25650	3500920513		102-2		IVESTER #1-3
-POLARIS ENERGY CORP				RECEIVED:	04/04/84	JA: OK
8427402	27144	3511122539		108		HUCKABEE #1-A
-RED EAGLE OIL CO				RECEIVED:	04/04/84	JA: OK
8427472	27335	3501121830		103		BLANKENSHIP #1
-RICKS EXPLORATION CO				RECEIVED:	04/04/84	JA: OK
8427466	23022	3500321033		102-4 103		KOEHN #29-A
-RLR LTD				RECEIVED:	04/04/84	JA: OK
8427462	14342	3510521077		108		BROWN #6
8427461	14341	3510521132		108		BROWN #8
8427460	14338	3510521201		108		HENDRICKS #3
8427463	14344	3510521221		108		HENDRICKS #6
8427464	14343	3510521194		108		HENDRICKS #6
-ROYAL OAKS PETROLEUM CORP				RECEIVED:	04/04/84	JA: OK
8427458	26924	3508122070		103		TOMLINSON #2
-SABINE CORP				RECEIVED:	04/04/84	JA: OK
8427474	27318	3504300000		108		BILLINGTON 1-18
-SAMEDAN OIL CORPORATION				RECEIVED:	04/04/84	JA: OK
8427501	27404	3501922832		103		MURRAY #1-11
8427490	25534	3514920278		102-2		SLAGELL FARMS #2-26
-SAMSON RESOURCES COMPANY				RECEIVED:	04/04/84	JA: OK
8427507	26665	3500700000		108		BERENDS #1
-SANDSTONE RESOURCES INC				RECEIVED:	04/04/84	JA: OK
8427469	27338	3507122757		103		STATE #1
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	04/04/84	JA: OK
8427437	25647	3514920289		102-2		KARL #1
-SERVICE DRILLING CO				RECEIVED:	04/04/84	JA: OK
8427449	21326	3506100000		102-4		MCKIBBON #1-4
-STRIKER DRILLING CO				RECEIVED:	04/04/84	JA: OK
8427481	26838	3511922285		103		LEITH #1
8427482	26837	3511922329		103		LEITH #4
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/04/84	JA: OK
8427430	25664	3501521494		102-2		M D YEARWOOD 2-32 #2
8427399	27149	3511700000		108		MOEBIUS UNIT TR 2 #1
8427400	27148	3511700000		108		STATE 33 #1
8427398	27150	3503700000		108		STROUD PRUE SAND UT #13-2
8427420	27154	3503700000		108		STROUD PRUE SAND UT #26-3
8427401	27147	3503700000		108		STROUD PRUE SAND UT #39-1
8427397	27152	3508100000		108		STROUD PRUE SD UNIT TR 34 #4
-TEMPLEX INC				RECEIVED:	04/04/84	JA: OK
8427441	27442	3510721560		103		HUGH C SMITH #1
-TENNECO OIL COMPANY				RECEIVED:	04/04/84	JA: OK
8427435	22671	3501521274		102-4 103		RUMLEY #1-16
-TEXACO INC				RECEIVED:	04/04/84	JA: OK
8427454	25546	3505321235		102-2		LEFORCE FARMS #4
-THREE SANDS OIL INC				RECEIVED:	04/04/84	JA: OK
8427446	23022	3511922287		102-2 103		VITEK #1-4
-TOMMY M MOORE				RECEIVED:	04/04/84	JA: OK
8427408	26368	3511123355		108		HOLLOWAY #1-A
-TXO PRODUCTION CORP				RECEIVED:	04/04/84	JA: OK
8427473	27322	3515120404		108		CASEY #1
8427496	25580	3503920924		102-2		CLARK "P" #1
8427494	25698	3505321249		102-2 103		SULLIVAN "H" #3
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/04/84	JA: OK
8427444	27317	3504321829		103		SANDER #1-1
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	04/04/84	JA: OK
8427487	25073	3507720279		102-4		COX #1-8
8427407	27033	3505120848		103		DUNN #1
-UNITED OIL CORP				RECEIVED:	04/04/84	JA: OK
8427485	27361	3501722614		103		MCGINNIS #2
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	04/04/84	JA: OK
8427488	25142	3504321761		102-4 103		CUNNINGHAM #2-20
-WESTWIND PRODUCTION CO INC				RECEIVED:	04/04/84	JA: OK
8427452	23702	3512321964		103		WESTWIND/SURGNIER #7
-WILLARD OIL & GAS INC				RECEIVED:	04/04/84	JA: OK
8427447	27394	3500722623		103		NEAL #1-19
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
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-DELTA DRILLING CO				RECEIVED:	04/03/84	JA: WV

VOLUME 1110

FIELD NAME	PROD	PURCHASER
N E ENID	13.0	NORTHWEST CENTRAL
ENID N E	0.0	NORTHWEST CENTRAL
N E ENID	0.0	NORTHWEST CENTRAL
BALD HILL	3.7	PHILLIPS PETROLEU
NORTHEAST MARIETTA	15.0	CIMARRON TRANSMIS
	21.9	FARMLAND INDUSTRI
EAST OAKRCHE	0.0	
E WAYNOKA	110.0	MAGIC CIRCLE GAS
WEST LAWRIE	50.0	EASON OIL COMPANY
	0.0	CAJUN NATURAL GAS
	0.0	CAJUN NATURAL GAS
S EAST CEMENT	146.0	ARKANSAS LOUISIAN
HASKELL	55.0	PHILLIPS PETROLEU
S W WOODWARD	410.0	
QUINTON	150.0	SOUTHEAST TRANSMI
	0.0	UNION TEXAS PETRO
SOONER TREND	0.0	UNION TEXAS PETRO
	0.0	
GUYMON-HUGOTON	0.0	ANR PIPELINE CO
GUY HUG GAS - COUNCIL	0.0	MICHIGAN WISCONSI
OKLAHOMA HUGOTON-DOLO	0.0	MICHIGAN WISCONSI
	300.0	
BALD HILL	54.8	PHILLIPS PETROLEU
N W OKEENE	182.0	PIONEER GAS PRODU
	0.0	UNION TEXAS PETRO
	0.0	NORTHWEST CENTRAL
	0.0	NORTHWEST CENTRAL
	0.0	NORTHWEST CENTRAL
	0.0	NORTHWEST CENTRAL
NOWATA	0.0	NORTHWEST CENTRAL
PRAIRIE GEM FIELD	15.0	SUN EXPLORATION &
	0.0	PHILLIPS PETROLEU
	500.0	BRIDGELINE GAS DI
	255.0	OKLAHOMA GAS & EL
	0.0	NORTHERN NATURAL
TONKAWA	222.0	CITIES SERVICE OI
SOUTH HYDRO	945.0	OKLAHOMA GAS & EL
	365.0	DELHI GAS PIPELIN
SCHLEGEL	0.0	
SCHLEGEL	0.0	
EAKLY EAST	88.0	
MOEBIUS	0.7	
MOEBUIS	4.0	
STROUD	0.5	KERR-MCGEE CORP
STROUD	0.6	KERR-MCGEE CORP
STROUD	0.5	KERR-MCGEE CORP
STROUD	0.5	KERR-MCGEE CORP
SOUTHWEST AHAROAH LAK	18.0	PHILLIPS PETROLEU
WATONGA-CHICKASHA TRE	35.0	TRANSOK INC
VICAR NORTH	157.4	UNION TEXAS PETRO
	20.4	ARCO OIL & GAS CO
HECTOR	10.0	PHILLIPS PETROLEU
NE WAYNOKA	0.0	UNITED GAS PIPELI
SE HAMMON	0.0	DELHI GAS PIPELIN
WEST POND CREEK	0.0	
NE SEILING	180.0	
PANOLA	0.0	ARKANSAS LOUISIAN
WATONGA-CHICKASHA	250.0	ARKANSAS LOUISIAN
	0.0	PHILLIPS PETROLEU
EAST PUTNAM	0.0	
EAST FRANCIS	36.0	CONTINENTAL GAS S
	670.0	PHILLIPS PETROLEU

VOLUME 1110

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8427386		4708703787		103		C P LOONEY #1	WALTON	0.0	COLUMBIA GAS TRAN
8427387		4708703788		103		NIDA-KELLY UNIT #1	WALTON	0.0	COLUMBIA GAS TRAN
-ENERGY UNLIMITED INC				RECEIVED:	04/04/84	JA: WV			
8427391		4707321292		103		J W ELLIOTT #4	GRANT DISTRICT	0.0	CONSOLIDATED GAS
-FOX DRILLING CO INC				RECEIVED:	04/04/84	JA: WV			
8427395		4700101646		103		RICKARD #1	BELINGTON	20.0	
-HAUGHT INC				RECEIVED:	04/03/84	JA: WV			
8427381		4709500699		108		CARL W NOLAN H-765	CENTERVILLE DISTRICT	2.0	TYLER CONSTRUCTI(
8427382		4709500700		108		CARL W NOLAN H-766	CENTERVILLE DISTRICT	2.0	TYLER CONSTRUCTI(
8427383		4709500701		108		CARL W NOLAN H-767	CENTERVILLE DISTRICT	2.0	TYLER CONSTRUCTI(
8427384		4709500702		108		CARL W NOLAN H-768	CENTERVILLE DISTRICT	2.0	TYLER CONSTRUCTI(
8427385		4709500703		108		CARL W NOLAN H-769	CENTERVILLE DISTRICT	2.0	TYLER CONSTRUCTIO
-J & J ENTERPRISES INC				RECEIVED:	04/03/84	JA: WV			
8427371		4703301092		108		B-123	ENGLE	0.0	CONSOLIDATED GAS
8427360		4703301093		108		B-124	ENGLE	0.0	CONSOLIDATED GAS
8427363		4700108900		108		B-126	PLEASANT	0.0	CONSOLIDATED GAS
8427364		4700108910		108		B-127	PLEASANT	0.0	CONSOLIDATED GAS
8427361		4703301114		108		B-128	SARDIS	0.0	CONSOLIDATED GAS
8427362		4700101084		108		B-203	UNION	0.0	CONSOLIDATED GAS
8427365		4700101090		108		B-204	UNION	0.0	CONSOLIDATED GAS
8427359		4700101097		108		B-255	PHILIPPI	0.0	CONSOLIDATED GAS
8427370		4701702456		108		B-280	WEST UNION	0.0	CONSOLIDATED GAS
8427369		4700101329		108		B-287	VALLEY	0.0	CONSOLIDATED GAS
8427367		4700101357		108		B-330	UNION	0.0	CONSOLIDATED GAS
8427368		4700101331		108		B-372	PHILIPPI	0.0	CONSOLIDATED GAS
8427366		4700101478		108		B-404	ELK	0.0	CONSOLIDATED GAS
8427372		4703301122		108		B-81	UNION	0.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	04/04/84	JA: WV			
8427392		4703302423		103		J-228	COAL	200.0	CONSOLIDATED GAS
8427393		4700101516		103		J-408	VALLEY	20.0	COLUMBIA GAS TRAN
8427394		4703302784		103		J-659	SARDIS	0.0	CARNEGIE NATURAL
-PENNZOIL COMPANY				RECEIVED:	04/03/84	JA: WV			
8427378		4703903996		108		A M PRICHARD #1	EMMONS	1.1	CONSOLIDATED GAS
8427377		4702103463		108		FRED WILT #1	TANNER	3.4	CONSOLIDATED GAS
8427376		4701302801		108		G B HOWELL #5	HENRIETTA	0.5	CONSOLIDATED GAS
8427380		4702103260		108		M B WOODFORD #1	TANNER	3.4	CONSOLIDATED GAS
8427374		4701303294		108		MEREDITH-HASSIG #13	RICHARDSON	0.8	CONSOLIDATED GAS
8427375		4700500150		108		T J HOPKINS #3	YAWKEY-FREEMAN	0.6	CONSOLIDATED GAS
8427379		4702101605		108		WILLIAM E LIVELY #15	SAND FORK	3.5	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	04/04/84	JA: WV			
8427389		4785058100		103		GRIFFIN PRODUCING 222930 #B-1	GRIFFIN	50.0	CONSOLIDATED GAS
8427390		4785057710		103		GRIFFIN PRODUCING 34-3525-5 #F-1	GRIFFIN	0.0	CONSOLIDATED GAS
-ROCKWELL PETROLEUM CO				RECEIVED:	04/03/84	JA: WV			
8427373		4702101395		108		BATTON #1	BATTON	0.0	EQUITABLE GAS CO
-WACO OIL AND GAS CO INC				RECEIVED:	04/04/84	JA: WV			
8427396		4702103952		103		CUNNINGHAM #1B	BULL FORK	35.0	CONSOLIDATED GAS
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** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM									
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-ANADARKO PRODUCTION COMPANY				RECEIVED:	04/04/84	JA: NM L			
8427338 RNM 0335-83		3001524441		103		TRAVIS D FEDERAL #20	LOCO HILLS-QUEEN-GRAY	5.0	PHILLIPS PETROLEU
8427337 RNM 0336-83		3001524486		103		TRAVIS E FEDERAL #1	LOCO HILLS-QUEEN-GRAY	14.0	PHILLIPS PETROLEU
-EASTLAND OIL CO				RECEIVED:	04/04/84	JA: NM L			
8427341 RNM 0302-83		3001524300		103		FORTSON FEDERAL COM #1	MALAGA (ATOKA)	275.0	LLANO INC
-EXXON CORPORATION				RECEIVED:	04/04/84	JA: NM L			
8427347 RNM 0281-83		3001524499		103		BURTON FLAT B FEDERAL #1	UNDESIGN AVALON	77.0	
8427343 RNM 0297-83		3001524378		103		YATES C FEDERAL #14	AVALON	9.0	PHILLIPS PETROLEU
8427344 RNM 0284-83		3001524525		103		YATES C FEDERAL #18	AVALON (DELAWARE)	12.0	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	04/04/84	JA: NM L			
8427348 RNM 0213-83		3000561966		107-TF		GETTY GC FEDERAL COM WELL #2	PECOS SLOPE ABO	274.0	TRANSWESTERN PIPE
8427349 RNM 0213-83		3000561966		103		GETTY GC FEDERAL COM WELL #2	PECOS SLOPE ABO	274.0	TRANSWESTERN PIPE
-MCCLELLAN OIL CORPORATION				RECEIVED:	04/04/84	JA: NM L			
8427339 RNM 0332-83		3000561902		103		MCCLELLAN HARRIS FEDERAL #1	SOUTH CHAVES QUEEN	18.3	PHILLIPS PETROLEU
-PETROLEUM CORP OF DELAWARE				RECEIVED:	04/04/84	JA: NM L			
8427342 RNM 0298-83		3002528240		103		TENNECO FEDERAL #2	JUSTIS TUBB DRINKARD	0.0	
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	04/04/84	JA: NM L			
8427346 RNM 0282-83		3002528186		103		FEDERAL Q WELL #4	QUERECHO PLAINS Q A	20.1	PHILLIPS PETROLEU
8427345 RNM 0283-83		3002528190		103		FEDERAL Q WELL #5	QUERECHO PLAINS Q A	13.9	PHILLIPS PETROLEU
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	04/04/84	JA: NM L			
8427350 RNM 0082-84		3000561944		102-2		ISLER PENNZOIL FEDERAL #1	PECOS SLOPE ABO	80.0	PECOS RIVER GAS P
-TXO PRODUCTION CORP				RECEIVED:	04/04/84	JA: NM L			
8427340 RNM 0331-83		3001524509		103		YATES FEDERAL #5	EAST BURTON FLAT	750.0	DELHI GAS PIPELIN
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** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROCK SPRINGS, WY									
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-AMOCO PRODUCTION CO				RECEIVED:	04/02/84	JA: WY S			
8427355 W 201-3		4903721631		107-DP		BITTER CREEK II UNIT #5 (DAKOTA)	WILDCAT - DAKOTA	14.0	NORTHWEST CENTRAL
8427357 W 206-3		4903721631		102-2		BITTER CREEK II UNIT #5 (DAKOTA)	WILDCAT - DAKOTA	14.0	NORTHWEST CENTRAL
8427352 W 199-3		4903721631		107-DP		BITTER CREEK II UNIT #5 (FRONTIER)	WILDCAT - FRONTIER	14.0	NORTHWEST CENTRAL
8427356 W 205-3		4903721631		102-2		BITTER CREEK II UNIT #5 (FRONTIER)	WILDCAT - FRONTIER	14.0	NORTHWEST CENTRAL
8427353 W 200-3		4903721631		107-DP		BITTER CREEK II UNIT #5 (LAKOTA)	WILDCAT - LAKOTA	14.0	NORTHWEST CENTRAL
8427354 W 198-3		4903721631		102-2		BITTER CREEK II UNIT #5 (LAKOTA)	WILDCAT - LAKOTA	14.0	NORTHWEST CENTRAL
-KEMMERER JOHN L JR				RECEIVED:	04/02/84	JA: WY S			
8427358 W207-3		4903700000		103		#20-1 DUNCAN	TWIN ROCKS	114.0	STAUFFER CHEMICAL
-TXO PRODUCTION CORP				RECEIVED:	04/02/84	JA: WY S			
8427351 W208-3		4903722056		102-2		LITTLE WORM FEDERAL #1	LITTLE WORM CREEK	228.0	MOUNTAIN FUEL SUP

[FR Doc. 84-11744 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1111]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 25, 1984.

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The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

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Categories within each NGPA section are indicated by the following codes:

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- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservoir
- 102-5: New res. on old OCS lease

Section 103: New onshore production well

Section 107-DP: 15,000 ft or deeper
- 107-GB: Geopressured brine
- 107-DV: Devonian shale
- 107-CS: Coal seam gas
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS VOLUME 1111

ISSUED APRIL 25, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
FLORIDA DEPARTMENT OF NATURAL RESOURCES									
-EXXON CORPORATION				RECEIVED:	04/04/84	JA: FL			
8427612		0911320204		107-DP		LEON THOMAS #40-12	JAY/LEC	182.0	FLORIDA GAS TRANS
8427613		0911320214		107-DP		ST REGIS PAPER CO #5-6	JAY/LEC	215.0	FLORIDA GAS TRANS
ILLINOIS DEPARTMENT OF MINES & MINERALS									
-HAROLD W BRINKLEY				RECEIVED:	04/02/84	JA: IL			
8427513		1203300000		102-4		LONG #2		0.0	TEXAS GAS TRANSMI
8427511		1203300000		102-4		R O ILLYES #1A	HEATHSVILLE	0.0	TEXAS GAS TRANSMI
8427510		1203300000		102-4		R O ILLYES #2	HEATHSVILLE	0.0	TEXAS GAS TRANSMI
8427509		1203300000		102-4		R O ILLYES #3	HEATHSVILLE	0.0	TEXAS GAS TRANSMI
8427508		1203300000		102-4		R O ILLYES #4	HEATHSVILLE	0.0	TEXAS GAS TRANSMI
8427512		1203300000		102-4		SHAW #2	HEATHSVILLE	0.0	TEXAS GAS TRANSMI
DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE, NM									
-AAA OPERATING CO INC				RECEIVED:	04/04/84	JA: NM K			
8427577	NM 1316-83	3004525856		103		FEDERAL R #1-A	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	04/04/84	JA: NM K			
8427574	NM 1323-83	3004506402		108		H B MCGRADY "A" #2	BASIN DAKOTA	14.0	EL PASO NATURAL G
8427567	NM 0004-84	3004525581		103		J C GORDON "D"/TRUE #4E	BASIN DAKOTA	17.0	EL PASO NATURAL G
8427538	NM 0002-84A	3003923160		103		JICARILLA CONTRACT 146 #13E	BASIN DAKOTA	23.0	NORTHWEST PIPELIN
8427539	NM 0002-84B	3003923160		103		JICARILLA CONTRACT 146 #13E	GONZALES MESAVERDE	20.0	NORTHWEST PIPELIN
8427568	NM0003-84	3003923159		103		JICARILLA CONTRACT 146 #40	GONZALES - MESAVERDE	20.0	NORTHWEST PIPELIN
8427566	NM 0005-84	3004525625		103		MARTIN GAS COM "F" #1R	BASIN DAKOTA	25.0	EL PASO NATURAL G
8427579	NM 1298-83	3004525636		103		P O PIPKIN / TRUE #6E	BASIN - DAKOTA	37.0	EL PASO NATURAL G
8427580	NM 1313-83	3004510387		108		STANOLIND "A" #1	BLANCO MESAVERDE	13.0	EL PASO NATURAL G
8427575	NM 1325-83	3004508381		108		W D HEATH "A" #2	BLANCO - MESAVERDE	15.0	EL PASO NATURAL G
-BETA DEVELOPMENT CO				RECEIVED:	04/04/84	JA: NM K			
8427593	NM-0355-83	3004509532		108		PUBCO FEDERAL #1	BASIN DAKOTA	42.0	EL PASO NATURAL G
-CAULKINS OIL COMPANY				RECEIVED:	04/04/84	JA: NM K			
8427555	NM 0043-84B	3003923141		103		BREECH A 229 M	BLANCO MESA VERDE	15.0	GAS CO OF NEW MEX
8427556	NM 0043-84A	3003923141		103		BREECH A 229 M	BASIN DAKOTA	15.0	GAS CO OF NEW MEX
8427529	NM 0041-84A	3003923234		103		BREECH D 341 M	BLANCO MESA VERDE	15.0	GAS CO OF NEW MEX
8427530	NM 0041-84B	3003923234		103		BREECH D 341 M	BASIN DAKOTA	15.0	GAS CO OF NEW MEX
8427557	NM 0042-84-C	3003923143		103		BREECH 307 M	BLANCO MESA VERDE	20.0	GAS CO OF NEW MEX
8427558	NM 0042-84-B	3003923143		103		BREECH 307 M	BASIN DAKOTA	20.0	GAS CO OF NEW MEX
8427559	NM 0042-84A	3003923143		103		BREECH 307M	OTERO CHACRA	20.0	GAS CO OF NEW MEX
-CHACE OIL COMPANY INC				RECEIVED:	04/04/84	JA: NM K			
8427522	NM-0025-84	3003923286		103		JICARILLA 47-5-JV	SOUTH LINDRITH GALLUP	8.0	NORTHWEST PIPELIN
-CONSOLIDATED OIL & GAS INC				RECEIVED:	04/04/84	JA: NM K			
8427536	NM-1246-83	3003906651		108		HURON #1	TAPACITO PICTURED CLI	17.0	GAS CO OF NEW MEX
8427517	NM 1245-83	3004505483		108		NAVAJO #3	BASIN DAKOTA	13.0	GAS CO OF NEW MEX
-DOME PETROLEUM CORP				RECEIVED:	04/04/84	JA: NM K			
8427533	NM-1884-83	3004509525		108		DICK HUNT FEDERAL #2	BASIN DAKOTA	13.2	NORTHWEST PIPELIN
-DUGAN PRODUCTION CORP				RECEIVED:	04/04/84	JA: NM K			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8427523	NM 0024-84	3004525819		103	107-DP	RIVIERA #1
-EL PASO EXPLORATION CO				RECEIVED:	04/04/84	JA: NM K
8427601	NM-404-83-PB	3003922556		108-PB		JICARILLA 123C #29
8427602	NM-438-83-PB	3003922556		108-PB		JICARILLA 123C #29
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/04/84	JA: NM K
8427596	NM-563-83-PB	3004520338		108-PB		DAY B #4
8427598	NM-981-83-PB	3004520338		108-PB		DAY B #4
8427597	NM-540-83-PB	3004522824		108-PB		FIELDS #11
8427518	NM 1222-83	3004507318		108		GRAMBLING A #1
8427594	NM-1-84-ER	3004521653		108-ER		HUERFANO UNIT #274
8427599	NM-1089-83PB	3004507208		108-PB		LACKEY B #11
8427585	NM 1293-83	3003922381		108		LINDRITH UNIT #100
8427600	NM-2065-83PB	3004505816		108-PB		MCCONNELL #2
8427590	NM-994-83	3004520475		108		PIERCE #9
8427591	NM-911-83	3003920620		108		SAN JUAN 27-5 UNIT #150
8427589	NM-0678-83	3003920607		108		SAN JUAN 28-6 UNIT #178
8427564	NM-1170-83	3003920794		108		SAN JUAN 28-7 #167 PC & CH
8427516	NM 1178-83	3004506705		108		SCHWERDTFEGER A #13
8427565	NM 1269-83	3004506953		108		STOREY C #3
8427521	NM-1163-83	3003920258		108		VAUGHN #10
-GETTY OIL COMPANY				RECEIVED:	04/04/84	JA: NM K
8427604	NM-2546-83PB	3004506577		108-PB		CAMPBELL COM #1
8427576	NM-1319-83	3003923189		103		JICARILLA "B" #26E
8427595	NM-402-83-PB	3004523627		108-PB		NELLIE PLATERO #6
8427603	NM-1238-83PB	3004523627		108-PB		NELLIE PLATERO #6
8427605	NM-1696-83PB	3004523627		108-PB		NELLIE PLATERO #6
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/04/84	JA: NM K
8427552	NM 0033-84	3003922322		108		VANDENBURG #2
-HUSKY OIL COMPANY				RECEIVED:	04/04/84	JA: NM K
8427535	NM-1257-83	3004506447		108		BOLACK #2-D
8427584	NM 1285-83	3004500000		108		SCHWERDTFEGER #2-D
-KENDRICK A R				RECEIVED:	04/04/84	JA: NM K
8427610	NM 812-83PB	3004506323		108-PB		TONKIN FEDERAL #1
-LIVELY EXPLORATION COMPANY				RECEIVED:	04/04/84	JA: NM K
8427607	NM-2298-83PB	3004521016		108-PB		LIVELY #1
-MARATHON OIL COMPANY				RECEIVED:	04/04/84	JA: NM K
8427611	NM 2495-83PB	3003906309		108-PB		JICARILLA APACHE #4
-MERRION OIL & GAS CORP				RECEIVED:	04/04/84	JA: NM K
8427524	NM 0032-84	3003923326		103		CANYON LARGO UNIT #332
8427547	NM 0023-84	3004520178		108		JICARILLA 428 #2 (PC & CH)
8427573	NM-1321-83	3003923314		103		SALAZAR G COM 23-1
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/04/84	JA: NM K
8427606	NM-1082-83PB	3003907044		108-PB		JICARILLA E #3
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	04/04/84	JA: NM K
8427587	NM-0267-83	3004500000		108		NYE FEDERAL TRACT 1 #1
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/04/84	JA: NM K
8427608	NM1232-83PB	3004511135		108-PB		SAN JUAN 32-8 UNIT 14
-ROBERT L BAYLESS				RECEIVED:	04/04/84	JA: NM K
8427583	NM-1297-83	3094320634		108		AXI "P" #5
-SCHALK DEVELOPMENT COMPANY				RECEIVED:	04/04/84	JA: NM K
8427582	NM-1295-83	3004521313		108		SCHALK 94 #1
-SOUTHLAND ROYALTY CO				RECEIVED:	04/04/84	JA: NM K
8427578	NM 1315-83	3004525756		103		AZTEC #10
8427581	NM-1314-83	3004525770		103		AZTEC #9
8427548	NM 0021-84	3004525645		103		MOORE #5
8427570	NM 0006-84	3004507438		108		REID #13
8427569	NM 0007-84	3004507337		108		REID #17
-TENNECO OIL COMPANY				RECEIVED:	04/04/84	JA: NM K
8427550	NM-0028-84	3004508563		108		DAY #1
8427551	NM 0027-84	3004506061		108		DELHI TAYLOR E 1
8427525	NM-0031-84	3004523364		108		FLORANCE 115
8427540	NM 0016-84	3004525564		103	107-TF	FLORANCE 123E
8427541	NM 0015-84	3004525564		103		FLORANCE 123E
8427526	NM-0030-84	3004523435		108		HUBBARD A 1
8427549	NM-0029-84	3004511601		108		MOORE B1
-UNICON PRODUCING CO				RECEIVED:	04/04/84	JA: NM K
8427545	NM 0018-84	3004525798		103		ALBRIGHT #15
8427515	NM-1219-83	3004525668		103		ANGEL PEAK "B" #45
8427562	NM-1141-83	3004510999		108		JACQUEZ #1
8427588	NM-0884-83	3003963350		108		JICARILLA J #4
8427571	NM 0009-84	3004525737		103		MANGUM #5
8427586	NM0014-84	3004525721		103		MANGUM #6
8427542	NM 0020-84	3004525785		103		MANGUM #8
8427528	NM-0036-84	3004509643		108		MCCORD #11
8427543	NM 0019-84	3003923245		103		MCCRODEN A #5
8427537	NM 0012-84	3003923246		103		MCCRODEN A #6
8427572	NM 0010-84	3003923228		103		NAGEEZI FEDERAL 3 #1
8427514	NM-1142-83	3004505996		108		NEWSOM "A" #2
8427527	NM 0037-84	3004523921		108		NEWSOM "A" #4-E
8427532	NM-1132-83	3004559380		108		NEWSOM B #6
8427563	NM-1140-83	3004505897		108		NEWSOM C-3
8427546	NM 0017-84	3004525755		103		NICKSON #22
8427519	NM-1137-83	3004510680		108		NORDHAUS #1
8427520	NM-1135-83	3004511084		108		NORDHAUS #7
8427534	NM-1165-83	3004510852		108		OXNARD #1
8427560	NM-1134-83	3004510778		108		QUINN #8
8427561	NM-1133-83	3004506621		108		RICHARDSON #2
8427544	NM 0013-84	3004525720		103		SUMMIT #14
-UNION TEXAS PETROLEUM				RECEIVED:	04/04/84	JA: NM K
8427609	NM2288-83PB	3004507993		108-PB		ALBRIGHT #7
-PHILLIPS OIL CO				RECEIVED:	04/04/84	JA: UT K
8427554	UA 0038-84	4303730916		103		RATHERFORD UNIT #19-42
8427553	UA 0039-84	4303730917		103		RATHERFORD UNIT #20-13
8427531	UA 0040-84	4303730915		103		RATHERFORD UNIT #20-44
-SUPERIOR OIL CO				RECEIVED:	04/04/84	JA: UT K
8427592	UA 1272-83	4303730778		103		MCELMO CREEK UNIT WELL R-18

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FIELD NAME	PROD	PURCHASER
BASIN DAKOTA	40.0	NORTHWEST PIPELIN
BASIN	0.0	NORTHWEST PIPELIN
BASIN	0.0	NORTHWEST PIPELIN
BASIN	0.0	EL PASO NATURAL G
BASIN	0.0	EL PASO NATURAL G
BLANCO	0.0	EL PASO NATURAL G
BLANCO - MESA VERDE	16.0	EL PASO NATURAL G
BASIN	0.0	EL PASO NATURAL G
BLANCO	0.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	13.0	EL PASO NATURAL G
BALLARD	0.0	EL PASO NATURAL G
BLANCO - PICTURED CLI	16.0	EL PASO NATURAL G
TAPACITO - PICTURED C	7.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	6.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	15.0	EL PASO NATURAL G
BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	15.0	EL PASO NATURAL G
OTERO CHACRA	15.0	EL PASO NATURAL G
BASIN	0.0	EL PASO NATURAL G
BASIN DAKOTA	0.0	EL PASO NATURAL G
HARRIS MESA CHACRA	0.0	EL PASO NATURAL G
HARRIS MESA CHACRA	0.0	EL PASO NATURAL G
HARRIS MESA CHACRA	0.0	EL PASO NATURAL G
LYBROOK	0.0	GAS CO OF NEW MEX
BASIN DAKOTA	0.0	EL PASO NATURAL G
WEST KUTZ CANYON	15.0	EL PASO NATURAL G
BASIN DAKOTA	0.0	
BASIN	0.0	EL PASO NATURAL G
BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
DEVILS FORK GALLUP	70.8	EL PASO NATURAL G
BALLARD PICTURED CLIF	5.9	NORTHWEST PIPELIN
DEVILS FORK GALLUP	39.4	EL PASO NATURAL G
BLANCO	0.0	NORTHWEST PIPELIN
BASIN DAKOTA	20.3	EL PASO NATURAL G
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BALLARD PICTURED CLIF	3.6	GAS CO OF NEW MEX
BASIN DAKOTA	0.0	NORTHWEST PIPELIN
KUTZ	75.0	SOUTHERN UNION GA
KUTZ	77.0	SOUTHERN UNION GA
GLADES	20.0	SOUTHERN UNION GA
AZTEC	7.0	SOUTHERN UNION GA
AZTEC	6.0	SOUTHERN UNION GA
BASIN DAKOTA	10.0	NORTHWEST PIPELIN
BASIN DAKOTA	13.0	EL PASO NATURAL G
BLANCO FRUITLAND/BLAN	16.0	EL PASO NATURAL G
BASIN DAKOTA	57.0	EL PASO NATURAL G
BLANCO PICTURED CLIFF	49.0	NORTHWEST PIPELIN
BASIN DAKOTA	14.0	EL PASO NATURAL G
BASIN DAKOTA	14.0	NORTHWEST PIPELIN
UNDESIGNATED GALLUP	43.0	EL PASO NATURAL G
GALLUP	87.0	GAS CO OF NEW MEX
BLANCO MESA VERDE	60.0	SOUTHERN UNION GA
	57.0	GAS CO OF NEW MEX
UNDESIGNATED GALLUP	128.0	GAS CO OF NEW MEX
UNDESIGNATED GALLUP	186.0	GAS CO OF NEW MEX
UNDESIGNATED GALLUP	214.0	GAS CO OF NEW MEX
BASIN DAKOTA	16.4	EL PASO NATURAL G
OJITO GALLUP DAKOTA E	68.0	GAS CO OF NEW MEX
OJITO GALLUP DAKOTA E	64.0	GAS CO OF NEW MEX
LYBROOK GALLUP	181.0	
PICTURED CLIFFS	13.0	GAS CO OF NEW MEX
BASIN DAKOTA	20.0	EL PASO NATURAL G
PICTURE CLIFFS	43.0	SOUTHERN UNION GA
BALLARD PICTURE CLIFF	0.0	SOUTHERN UNION GA
UNDESIGNATED GALLUP	292.0	
BLANCO	60.0	SOUTHERN UNION GA
MESA VERDE	17.0	SOUTHERN UNION GA
MESA VERDE	13.0	SOUTHERN UNION GA
MESA VERDE	47.0	SOUTHERN UNION GA
DAKOTA	55.0	EL PASO NATURAL G
ARMENTA GALLUP EXT	71.0	GAS CO OF NEW MEX
BASIN DAKOTA	8.0	
GREATER ANETH	1314.0	EL PASO NATURAL G
GREATER ANETH	29.6	EL PASO NATURAL G
GREATER ANETH	38.7	EL PASO NATURAL G
GREATER ANETH	22.0	EL PASO NATURAL G

[FR Doc. 84-11745 Filed 4-30-84; 8:45 am]
BILLING CODE 6717-01-C

[Vol. 1112]

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Issued: April 25, 1984.

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- 107–CS: Coal seam gas
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Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1112

ISSUED APRIL 25, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AEN ENERGY INC				RECEIVED:	04/06/84	JA: TX			
8427740	F-7B-076888	4215131696		102-4		MILDRED TAYLOR #3 (OIL)	WILDCAT	36.0	DELHI GAS PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427788	F-03-077883	4224531710		103		HOWTH & KEITH #8	BEAUMONT WEST (5100 M	110.0	AMOCO GAS CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/06/84	JA: TX			
8427807	F-8A-078429	4207931830		103		BOYD #55-X	SLAUGHTER	4.0	AMOCO PRODUCTION
8427662	F-03-073066	4224130393		102-4		FOLEY SECTION 28 #1	SABINE TRAM SW (WILCO	365.0	ARCO CHEMICAL CO
8427667	F-06-073508	4242330696		102-4		WILL WALTON #4	CHAPEL HILL N E (TRAV	100.0	ETEXAS PRODUCERS
-ASTIN CORP				RECEIVED:	04/06/84	JA: TX			
8427793	F-7B-078141	4208333867		102-4		C W HEMPHILL II #8 (GAS)	HEMPHILL (JENNINGS)	1171.0	EL PASO HYDROCARB
-ATWELL OIL CO INC				RECEIVED:	04/06/84	JA: TX			
8427811	F-7B-078495	4205934717		102-4		PILLANS #1	MIS RAIZES (DUFFER)	0.0	SOUTHWESTERN GAS
-B D PRODUCTION CO INC				RECEIVED:	04/06/84	JA: TX			
8427774	F-04-077605	4235532242		102-4		SCHUBERT #1	CLARA DRISCOLL SOUTH	90.0	HOUSTON PIPELINE
-BARCO INDUSTRIES INC				RECEIVED:	04/06/84	JA: TX			
8427817	F-7B-078544	4208333705		102-4		BARCO-SMITH #4 (OIL)	WILDCAT	36.0	EL PASO HYDROCARB
8427776	F-7B-077626	4208333744		102-4		SMITH #1 (GAS)	DUSTY (GRAY)	1000.0	UNION TEXAS PETRO
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427693	F-04-075090	4235530343		102-4		STATE OF TEXAS 391 WELL #1	RED FISH BAY (FRIO 83	500.0	UNITED GAS PIPE L
-BEAL OPERATING				RECEIVED:	04/06/84	JA: TX			
8427818	F-7B-078545	4208332846		102-4		MARCUS WEST #1 (108784)	BIAL (FRY UPPER)	72.0	EL PASO HYDROCARB
-BEN HOGAN				RECEIVED:	04/06/84	JA: TX			
8427707	F-7B-075477	4209331160		103		DUSTER UNIT #1	MITTIE (MARBLE FALLS)	30.0	SOUTHWESTERN GAS
-BUFFTON OIL & GAS INC				RECEIVED:	04/06/84	JA: TX			
8427724	F-09-076031	4223735449		102-4		MARLEY #3	PEARL MOSLEY (CONGL U	270.0	SOUTHWESTERN GAS
-BURK ROYALTY CO				RECEIVED:	04/06/84	JA: TX			
8427635	F-06-071227	4240131636		102-4 103		T J STOVALL #39	HILL (TRAVIS PEAK)	54.7	
-BURNETT OIL CO INC				RECEIVED:	04/06/84	JA: TX			
8427741	F-01-076891	4231131894		102-4 103		A BILLINGS #1	AWP (OLMOS)	0.0	HPI TRANSMISSION
8427773	F-01-077569	4231131892		102-4 103		DUSEK #1	A W P (OLMOS)	0.0	HPI TRANSMISSION
-C & K PETROLEUM INC				RECEIVED:	04/06/84	JA: TX			
8427742	F-08-076945	4243131400		103		FOSTER 34-7	CONGER (PENN)	0.0	VALERO TRANSMISSI
8427805	F-08-078357	4243131417		103		FOSTER 34-8	CONGER (PENN)	0.0	VALERO TRANSMISSI
8427762	F-08-077237	4243131408		103		GUNTER 25-3	CONGER (PENN)	0.0	VALERO TRANSMISSI
-C F LAWRENCE & ASSOC INC				RECEIVED:	04/06/84	JA: TX			
8427690	F-7C-074970	4210534619		103		TODD "ALPHA" #1	TODD W (SAN ANDRES)	0.0	APACHE GAS CORP
-CENERGY EXPLORATION CO				RECEIVED:	04/06/84	JA: TX			
8427640	F-03-072413	4270830223		102-4 103		STATE TRACT SW/4 #3	HIGH ISLAND BLOCK 10-	0.0	TRANSCONTINENTAL
-CHEVRON U S A INC				RECEIVED:	04/06/84	JA: TX			
8427784	F-08-077767	4200333085		103		COLUMBUS GRAY 21 #26	FUHRMAN - MASCHO	27.4	PHILLIPS PETROLEU
8427777	F-08-077645	4200333628		103		COLUMBUS GRAY 22 #23	FUHRMAN - MASCHO	112.0	PHILLIPS PETROLEU
8427745	F-08-076952	4222733013		103		G M DODGE #63	IATAN EAST HOWARD	14.6	GETTY OIL CO
8427781	F-08-077704	4222733124		103		G M DODGE #70	IATAN EAST HOWARD	13.0	GETTY OIL CO
8427748	F-08-076956	4247532953		103		LUCY ADAMS #51	WARD-ESTES NORTH	34.7	CABOT CORP
8427782	F-08-077705	4249531617		103		SEALY & SMITH FOUNDATION 11 #2	ARENOSO (STRAWN DETRI	3.7	PHILLIPS PETROLEU
8427744	F-08-076951	4233532602		103		W L FOSTER 1 #82	IATAN EAST HOWARD	13.5	GETTY OIL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8427747	F-08-076954	4233532600		103		W L FOSTER 1 #83	IATAN EAST HOWARD	12.8	GETTY OIL CO
8427746	F-08-076953	4233532599		103		W L FOSTER 1 #84	IATAN EAST HOWARD	6.6	GETTY OIL CO
8427743	F-08-076950	4222733127		103		W L FOSTER 1 #85	IATAN EAST HOWARD	13.1	GETTY OIL CO
-CLAYTON W WILLIAMS JR				RECEIVED:	04/06/84	JA: TX			
8427725	F-03-076061	4205100000		102-2		MELVIN DEUTSCH #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CLEMCO INC				RECEIVED:	04/06/84	JA: TX			
8427730	F-06-076412	4218300000		108		PINETREE #2	WILLOW SPRINGS (HENDE	14.6	UNITED GAS PIPE L
-COMANCHE INVESTMENTS				RECEIVED:	04/06/84	JA: TX			
8427787	F-7B-077882	4213335377		102-4	103	GLORIA RUBY #1	DAVENPORT (RANGER M)	432.0	LONE STAR GAS CO
-CONOCO INC				RECEIVED:	04/06/84	JA: TX			
8427732	F-04-076730	4247933699		102-2	107-TF	ROSA V BENAVIDES D #22	CONTRARY (LOBO)	161.0	E I DUPONT DENEMO
8427678	F-04-074243	4200730731		102-4	103	ST CHARLES CO #72	BLACKJACK (V)	488.0	E I DU PONT DE NE
8427665	F-04-073658	4247933648		102-2	107-TF	VAQUILLAS RANCH "A" #36	RANCH VIEJO (LOBO 6)	0.0	E I DUPONT DENEMO
8427639	F-04-072026	4247932958		102-4	107-TF	VAQUILLAS RANCH A 3 #8	POZO (WALKER UPPER)	191.0	E I DUPONT DE NEM
8427790	F-04-078098	4247933731		102-2	107-TF	VAQUILLAS RANCH A5 #40	POZO (LOBO)	83.0	E I DUPONT DE NEM
-CORUM PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427726	F-01-076222	4228300000		102-4		GEORGE LIGHT III #1	ATLEE (OLMOS)	158.0	HOUSTON PIPELINE
-DALECO RESOURCES				RECEIVED:	04/06/84	JA: TX			
8427645	F-03-072688	4205131993		102-4		RUBENSTEIN #1	CLAY NE (AUSTIN CHALK	0.0	CLAJON GAS CO
-DAVID MARTIN PHILLIP				RECEIVED:	04/06/84	JA: TX			
8427642	F-02-072452	4217500000		102-4		T M REED #2	CABEZA CREEK (HICKS)	25.0	UNITED GAS PIPELI
8427641	F-02-072449	4217500000		102-1		T M REED #4	CABEZA CREEK SANDY HI	0.0	UNITED GAS PIPELI
-DON H HANVEY OIL INTERESTS INC				RECEIVED:	04/06/84	JA: TX			
8427638	F-7B-071670	4213334893		102-4		HANVEY-FEE #3 RRC LEASE NO 106101	ARDINGER (LAKE SAND U	120.0	EL PASO HYDROCARB
-DR R B WILCHAR				RECEIVED:	04/06/84	JA: TX			
8427736	F-10-076828	4248330781		103		J C SCHNEIDER #1 (GAS)	PANHANDLE-EAST (WHEEL	18.0	WARREN PETROLEUM
-DRIVER INVESTMENTS INC				RECEIVED:	04/06/84	JA: TX			
8427682	F-03-074540	4214931556		103		STICK #1 (16787)	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
-E D ANDERSON				RECEIVED:	04/06/84	JA: TX			
8427616	F-7B-054372	4223700000		108-ER		D W TUCKER #1	GRAFORD	0.0	LONE STAR GAS CO
-EDGE & MOEHLMANN				RECEIVED:	04/06/84	JA: TX			
8427614	F-05-026620	4246730021		102-4		PHALBA GAS UNIT #1 #2 PER #050869	TUMDRA (RODESSA) GAS	200.0	LONE STAR GAS CO
-EDWIN L COX				RECEIVED:	04/06/84	JA: TX			
8427656	F-8A-072828	4216900000		102-4		HUNTLEY #1 "G"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427649	F-8A-072813	4216900000		102-4		HUNTLEY #10	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427650	F-8A-072814	4216900000		102-4		HUNTLEY #11-G	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427651	F-8A-072815	4216900000		102-4		HUNTLEY #2 "G"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427646	F-8A-012809	4216900000		102-4		HUNTLEY #2-S	HUNTLEY	3.6	MIDPLAINS PIPELIN
8427647	F-8A-072810	4216900000		102-4		HUNTLEY #3 "G"	HUNTLEY	4.5	MIDPLAINS PIPELIN
8427652	F-8A-072816	4216900000		102-4		HUNTLEY #4 "X"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427648	F-8A-072812	4216900000		102-4		HUNTLEY #5 "G"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427658	F-8A-072838	4216900000		102-4		HUNTLEY #5 "S"	HUNTLEY	12.0	MIDPLAINS PIPELIN
8427654	F-8A-072822	4216900000		102-4		HUNTLEY #6 "G"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427655	F-8A-072824	4216900000		102-4		HUNTLEY #7 "G"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427653	F-8A-072820	4216900000		102-4		HUNTLEY #7 "S"	HUNTLEY (3400)	1.3	MIDPLAINS PIPELIN
8427661	F-8A-072904	4216900000		102-4		HUNTLEY #8 "G"	HUNTLEY	1.0	MIDPLAINS PIPELIN
8427657	F-8A-072829	4216900000		102-4		HUNTLEY #9 "G"	HUNTLEY	3.9	MIDPLAINS PIPELIN
8427634	F-04-071177	4247933572		102-4	107-TF	VERGARA #1	RANCHO VIEJO	540.0	HOUSTON PIPELINE
-EUROPEAN SOUTHWEST CO				RECEIVED:	04/06/84	JA: TX			
8427703	F-01-075343	4249331282		102-4		S M LANGILLE ESTATE #1	CINDY ANN (AUSTIN CHA	0.0	VALERO TRANSMISSI
-EXXON CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427797	F-7C-078149	4243131409		103		LOU E JOHNSON ESTATE A/C #55	JAMESON (STRAWN)	60.0	
8427765	F-8A-077329	4216532542		103		ROBERTSON CLEARFORK UNIT #2903	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8427814	F-8A-078521	4216532637		103		ROBERTSON CLEARFORK UNIT #4001	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
-FRIO EXPLORATION CO				RECEIVED:	04/06/84	JA: TX			
8427698	F-04-075257	4240931743		102-4		C S BROWN #1	WILLMAN FIELD	200.0	HGI CORP
-GETTY OIL COMPANY				RECEIVED:	04/06/84	JA: TX			
8427699	F-04-075315	4248100000		102-4	107-TF	DIX RANCH #536-A	DIX RANCH (LOWER WILC	0.0	HOUSTON PIPELINE
-GRAHAM ENERGY LTD				RECEIVED:	04/06/84	JA: TX			
8427816	F-08-078542	4235331522		103		FOSTER S PRICE #4	JAMESON NORTH (STRAWN	0.0	SUN OIL CO
-GULF OIL CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427813	F-09-078511	4218130820		102-4		CULLAR #1	MINERAL CREEK W (VIOL	175.2	DOW CHEMICAL CO U
8427808	F-08-078441	4210333082		103		W N WADDELL #1175 (TR3)	UNIVERSITY WADDELL (D	4.7	
-H P PINNELL TRUSTEE				RECEIVED:	04/06/84	JA: TX			
8427721	F-04-075916	4248930595		102-4	103	EL SAUZ RANCH NOPAL #2	ARROYO COLORADO E-4B	0.0	NATURAL GAS PIPEL
-HILL PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427729	F-03-076342	4204130977		102-2		S MCATEER #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-HNG OIL COMPANY				RECEIVED:	04/06/84	JA: TX			
8427769	F-7C-077524	4243500000		103	107-TF	FAWCETT "130" #5	SAWYER (CANYON)	150.0	INTRATEX GAS CO
8427770	F-7C-077529	4243500000		103	107-TF	SHURLEY "96" #6	SAWYER (CANYON)	345.0	INTRATEX GAS CO
8427771	F-7C-077530	4243500000		103	107-TF	WARD "114" #7	SAWYER (CANYON)	180.0	INTRATEX GAS CO
-HRUBETZ OIL CO				RECEIVED:	04/06/84	JA: TX			
8427785	F-7C-077808	4239932990		102-4		ROSEBUD SMALLWOOD #1	GERLACH (ELLENBURGER)	591.3	UNION TEXAS PETRO
-HUFO PRODUCTION CORP				RECEIVED:	04/06/84	JA: TX			
8427618	F-10-058610	4206500000		103		WARE 83-4	PANHANDLE CARSON COUN	0.0	CABOT PIPELINE CO
-HUMBLE EXPLORATION CO INC				RECEIVED:	04/06/84	JA: TX			
8427783	F-03-077742	4214931651		102-2		DELILAH #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8427713	F-03-075610	4214931637		102-2		NELLIE GRAY #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8427714	F-03-075614	4228731500		102-2		OLGA #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-HUSKY OIL COMPANY				RECEIVED:	04/06/84	JA: TX			
8427633	F-7C-070883	4232730452		102-2		G WHITEHEAD #3	SOUTH BRANCH (CROSSCU	182.5	CIBOLO GAS INC
-J H ROBISON & ASSOCIATES LTD				RECEIVED:	04/06/84	JA: TX			
8427768	F-04-077472	4224931706		102-4		SUZIE PAWLIK #1 ID NO PENDING	SAN DIEGO NF (7260)	438.0	NUE WELLS PIPELIN
-JAMES D RICE				RECEIVED:	04/06/84	JA: TX			
8427624	F-7B-066146	4208333171		102-4		LORENE RICE #1	TRICKHAM (CROSSCUT LO	240.0	EL PASO HYDROCARB
-JOHN L COX				RECEIVED:	04/06/84	JA: TX			
8427710	F-7C-075521	4246132064		103		ARCO - UNIVERSITY #1	BENEDUM (FUSSELMAN)	10.0	UNION TEXAS PETRO
8427701	F-08-075333	4232931202		103		COSDEN #4 RRC #14801	SPRABERRY (TREND AREA	10.0	PHILLIPS PETROLEU
8427709	F-7C-075517	4238332695		103		ROCKER B "L" #4	SPRABERRY (TA)	10.0	EL PASO NATURAL G
-JOHNSON & PRICE				RECEIVED:	04/06/84	JA: TX			
8427779	F-08-077658	4230130471		102-4		W D JOHNSON -B- #1	DIMMIT	0.0	PHILLIPS PETROLEU
-KATLACO OPERATING CO INC				RECEIVED:	04/06/84	JA: TX			
8427627	F-7B-068254	4213334699		102-4	103	KATLACO FEE #3 (20652)	ARDINGER (LAKE SAND U	0.0	EL PASO HYDROCARB
8427626	F-7B-068036	4213334583		102-4	103	MURDOCK #2 (105053)	HANVEY (LAKE SAND)	0.0	EL PASO HYDROCARB
8427628	F-7B-068532	4213334805		102-4		MURDOCK #3 (106444)	HANVEY (LAKE SAND)	0.0	EL PASO HYDROCARB
-KILROY CO OF TEXAS				RECEIVED:	04/06/84	JA: TX			
8427664	F-03-073187	4270330276		102-4		STATE TRACT 485-L 6	MATAGORDA ISLAND BLK	182.0	VALLEY PIPE LINES
-L TEXAS PETROLEUM INC				RECEIVED:	04/06/84	JA: TX			
8427617	F-7B-056708	4244700000		108		W R LAWSON #2	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	04/06/84	JA: TX			
8427803	F-03-078270	4228731275		102-4		KRENEK #1	HOOKER CREEK (NAVARRO	11.0	PHILLIPS PETROLEU
8427802	F-03-078269	4205132499		102-4		TORZA LEBLANC #1	HOOKER CREEK (NAVARRO	10.0	FERGUSON CROSSING
-LOUIS A NEWITT				RECEIVED:	04/06/84	JA: TX			
8427708	F-03-075508	4208900000		102-4		HEIMAN-FLING #3	EASTER (1720') PROPOS	0.0	H G I CORP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-M BRAD BENNETT INC				RECEIVED:	04/06/84	JA: TX			
8427670	F-08-073864	4230130359		103		ABERNATHY "2" #1	GRICE (DELAWARE)	16.4	PHILLIPS PETROLEU
-MARK PRODUCING INC				RECEIVED:	04/06/84	JA: TX			
8427804	F-03-078303	4215731419		102-4		BONNER-ZWEINER #1 105136	PROPOSED KENDLETON (F	200.0	HOUSTON PIPE LINE
-MARSHALL EXPLORATION INC				RECEIVED:	04/06/84	JA: TX			
8427636	F-03-071398	4222530432		103		CHANDLER-WILLIAMS #1	FT TRINIDAD SOUTH (OT	190.0	SOUTH TEXAS GATHE
8427637	F-03-071399	4222530452		103		CHANDLER-WILLIAMS #2	FT TRINIDAD E (EDWARD	180.0	SOUTH TEXAS GATHE
8427722	F-06-075932	4222530469		103		CROWSON #1 (11038)	PEARSON CHAPEL (EDWAR	75.0	SOUTH TEXAS GATHE
8427720	F-06-075770	4241930466		102-4	103	ELMO GREEN #1	SHELBYVILLE (PALUXY)	300.0	UNITED GAS PIPELI
8427694	F-03-075092	4231330469		102-4	103	M Y VICK #9	MADISONVILLE NE (GEOR	200.0	LONE STAR GAS CO
8427671	F-06-073929	4236531268		103		UNA BAGLEY #1	BELLE BOWER (PETTIT)	210.0	TENNESSEE GAS PIP
-MCCANN RONALD				RECEIVED:	04/06/84	JA: TX			
8427625	F-06-067051	4200131372		102-4		NED JOHNSON #1 (104388)	BEAVER (RODESSA) FIEL	365.0	ESPERANZA PIPELIN
-MESA ENERGY				RECEIVED:	04/06/84	JA: TX			
8427711	F-7B-075522	4241735448		103		MESA EAST MORAN #1 (GAS) (108796)	MORAN E (3800)	441.0	PRONTO COMPRESSIO
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427673	F-09074041	4223732339		103		LINDSEY RANCH #4	KRAMBERGER (ATOKA)	430.5	SOUTHWESTERN GAS
-NORTH RIDGE CORP				RECEIVED:	04/06/84	JA: TX			
8427800	F-7B-078217	4213334909		103		A HISE #3	RANGER (BLACK LIME WE	0.0	PRISM ENTERPRISES
8427799	F-7B-078216	4213335292		103		R H DANLEY #2	EASTLAND COUNTY REGUL	0.0	PRISM ENTERPRISES
8427798	F-7B-078215	4213335124		103		SIMON-BARKER UNIT #1	EASTLAND COUNTY REGUL	0.0	PRISM ENTERPRISES
-NORTHRIDGE OIL CO				RECEIVED:	04/06/84	JA: TX			
8427749	F-09-076974	4207732970		102-4		DEWEBER #1 RRC #23303	TALLY (CONGL)	100.0	TUFCO
8427738	F-09-076853	4207733229		102-4		WYNN "A" A-1 WELL	TALLY (CONGL)	219.0	TUFCO
-OXOCO OIL & GAS INC				RECEIVED:	04/06/84	JA: TX			
8427739	F-03-076874	4231330474		103		SCHOLZ #3	FT TRINIDAD - BARRETT	60.0	PECOS PIPELINE &
-PALM PETROLEUM CO				RECEIVED:	04/06/84	JA: TX			
8427623	F-01-064770	4217700000		102-4	103	PALM #1	SATURN (NAVARRO)	0.0	TENNESSEE GAS PIP
-PARKER & PARSLEY INC				RECEIVED:	04/06/84	JA: TX			
8427754	F-7C-77108	4238300000		103		HARTGROVE #4	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
8427753	F-7C-077107	4238300000		103		HARTGROVE #5	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
8427752	F-7C-077106	4232900000		103		HARTGROVE "A" #1	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
8427751	F-08-077105	4231700000		103		HOLT #1	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
8427809	F-7C-078443	4238300000		103		STATE "E" #1	SPRABERRY (TREND AREA	1.5	EL PASO HYDROCARB
8427674	F-08-074192	4232900000		103		STIMSON-BURLEY "18" #2	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/06/84	JA: TX			
8427669	F-04-073612	4221500000		108-ER		ADERHOLD UNIT #1-U	SAN CARLOS	0.0	TRUNKLINE GAS CO
8427719	F-06-075701	4236531593		103	107-TF	JORDAN #2	BETHANY EAST/COTTON V	140.0	UNITED GAS PIPE L
-PRAIRIE PRODUCING CO				RECEIVED:	04/06/84	JA: TX			
8427764	F-06-077296	4214731110		102-4		MCFADDIN GAS UNIT "D" #1	NACONICHE CREEK (TRAV	300.0	UNITED GAS PIPE L
-PRIME ENERGY CO				RECEIVED:	04/06/84	JA: TX			
8427622	F-7B-064491	4236300000		102-4		J J GREEN #1 (DONT HAVE ID # YET)	GRAFORD W	108.0	SOUTHWESTERN GAS
-R A W ENERGY CORP				RECEIVED:	04/06/84	JA: TX			
8427663	F-7B-073148	4236333133		102-4		LONG RANCH #1	RINGO (CONGL)	400.0	SOUTHWESTERN GAS
8427761	F-7B-077234	4208333779		102-4		SEALY-SMITH "95" #1	WILDCAT	150.0	RAW ENERGY CORP
-RANGE OIL CORP				RECEIVED:	04/06/84	JA: TX			
8427704	F-02-075366	4246900000		102-4		JOHN BRADY #2	CLASP (WILCOX)	0.0	REATA INDUSTRIAL
-REGENCY PETROLEUM CO				RECEIVED:	04/06/84	JA: TX			
8427685	F-8A-074767	4250132205		103		CONDITT #2-R (63578)	PRENTICE	1.0	AMOCO PRODUCTION
-ROYAL OIL & GAS CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427789	F-04-078045	4240931190		103		W F MAUCH #1	GERONIMO (FRIO LOWER)	73.0	HOUSTON PIPE LINE
-SAMSON RESOURCES COMPANY				RECEIVED:	04/06/84	JA: TX			
8427620	F-7C-062776	4243500000		108-ER		GERALD NICKS #2	DENISON	0.0	NORTHERN NATURAL
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	04/06/84	JA: TX			
8427727	F-02-076246	4229732561		102-4		CHARLES L BODDEN #6 (STRK)	FANT (WILCOX 10000)	0.0	UNITED TEXAS TRAN
-SAXON OIL COMPANY				RECEIVED:	04/06/84	JA: TX			
8427677	F-7C-074240	4238300000		103		WEATHERBY #10	SPRABERRY TREND AREA	0.0	PHILLIPS PETROLEU
8427676	F-7C-074239	4238332670		103		WEATHERBY #12	SPRABERRY TREND AREA	0.0	PHILLIPS PETROLEU
8427680	F-7C-074268	4238332672		103		WEATHERBY #14	SPRABERRY TREND AREA	0.0	PHILLIPS PETROLEU
8427679	F-7C-074250	4238332678		103		WEATHERBY #9	SPRABERRY TREND AREA	0.0	PHILLIPS PETROLEU
8427684	F-7C-074644	4238332673		103		WEATHERBY "H" #3	SPRABERRY TREND AREA	0.0	NORTHERN NATURAL
-SEAGULL RESOURCES INC				RECEIVED:	04/06/84	JA: TX			
8427660	F-03-072880	4215700000		102-4		HUNTINGTON #1-AL	ROSENBERG (FRIO 4660)	0.0	
8427659	F-03-072878	4215700000		102-4		ROBINOWITZ #4-U	ROSENBERG (FRIO 5100)	0.0	
-SHAR-ALAN OIL CO				RECEIVED:	04/06/84	JA: TX			
8427643	F-03-072487	4231330434		102-4		JOHN HARDY #1	MADISONVILLE NE (GEOR	0.0	LONE STAR GAS CO
-SHELL WESTERN E&P INC				RECEIVED:	04/06/84	JA: TX			
8427695	F-01-075119	4231131900		102-4		L S MCCLAUGHERTY #5	A W P (OLMOS)	300.0	HOUSTON PIPELINE
-SNOW OIL CO				RECEIVED:	04/06/84	JA: TX			
8427717	F-7B-075661	4213335336		102-4		DAVIS #1 (20560)	SNOW (RANGER)	73.0	LONE STAR GAS CO
8427750	F-7B-077088	4213335337		102-4		SMITH #1 (108619)	SOC (STRAWN)	24.0	LONE STAR GAS CO
8427767	F-7B-077455	4213335333		102-4		VAN ZANDT EAST #3 (GAS)	SNOW (STRAWN UPPER)	28.0	FLATWOOD GAS INC
-STALEY OPERATING CO				RECEIVED:	04/06/84	JA: TX			
8427702	F-7C-075340	4243533031		103	107-TF	MASTERSON 37 #3	PHYLLIS SONORA	182.0	INTRATEX GAS CO
-STEVE STAMPER				RECEIVED:	04/06/84	JA: TX			
8427778	F-09-077646	4223735684		103		B SIMPSON #3	JACK COUNTY REGULAR	20.0	LONE STAR GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427621	F-08-064036	4213500000		108-ER		E GOLDSMITH UNIT #27-2	EAST GOLDSMITH	0.0	PHILLIPS PETROLEU
8427718	F-03-075687	4236130440		103		JOHNSON RACHAEL HEIRS #1	ORANGE	146.0	
8427815	F-08-078528	4230130467		103		W D JOHNSON JR "F" #2	WHEAT	20.0	EL PASO NATURAL G
-SUPERIOR OIL CO				RECEIVED:	04/06/84	JA: TX			
8427666	F-04-073488	4221531351		102-4	103	JOHN HAMMAN "B" WELL #3	MONTE CHRISTO (VICKSB	0.0	
8427630	F-04-069722	4221500726		107-RT		JOHN HAMMAN WELL B-1	MONTE CHRISTO (9000)	548.0	FLORIDA GAS TRANS
8427755	F-03-077133	4233930601		103		LAKE CREEK UNIT #35-L	LAKE CREEK (NO 5 SAND	26.0	TRUNKLINE GAS CO
8427756	F-03-077136	4233930601		103		LAKE CREEK UNIT #35-U	LAKE CREEK (NO 3 SAND	31.0	TRUNKLINE GAS CO
-TENNECO OIL COMPANY				RECEIVED:	04/06/84	JA: TX			
8427766	F-10-077449	4217931411		103		COMS "D" 175	PANHANDLE GRAY	5.0	PHILLIPS PETROLEU
-TEPCO ENGINEERING INC				RECEIVED:	04/06/84	JA: TX			
8427731	F-02-076543	4202532044		102-4	103	E BOLLAND #1	BOLLAND RANCH S (PETT	55.0	SOUTHERN GAS PIPE
-TEXACO INC				RECEIVED:	04/06/84	JA: TX			
8427672	F-04-074030	4221531339		103	107-TF	A E GUERRA #24	MCALLEN RANCH	1095.0	TENNESSEE GAS PIP
8427794	F-8A-078145	4221900000		103		BOB SLAUGHTER BLK #341	SLAUGHTER	0.0	AMOCO PRODUCTION
8427716	F-08-075646	4232931224		102-4		C M TURNER #2	BRADFORD RANCH	144.5	EL PASO NATURAL G
8427780	F-08-077667	4243131398		102-4		E B COPE #8	CONGER SW	442.4	REATA INDUSTRIAL
8427697	F-04-075226	4224900000		108		H C DE TIJERINA #44	T-C-B	13.5	NATURAL GAS PIPEL
8427812	F-08-078498	4200333022		103		J E MABEE "A" NCT-1 #21A	MABEE	3.7	
8427715	F-08-075642	4230130476		102-4		LOVING AS" FEE #2	DIMMIT	102.2	
8427619	F-06-061427	4218330553		103		M T FLANAGAN ET AL "C" G/U #2U	DANVILLE (TRAVIS PEAK	204.4	LONE STAR GAS CO
8427759	F-8A-077180	4207931826		103		MALLET LAND & CATTLE CO "F" #49	SLAUGHTER	0.0	AMOCO PRODUCTION
8427758	F-08-077107	4238931443		102-4		REEVES "AQ" FEE #4	JESS BURNER	2.5	
8427735	F-08-076822	4243131380		103		STERLING "G" FEE #5	CONGER (PENN)	314.3	VALERO TRANSMISSI
8427796	F-08-078147	4243131423		103		STERLING "K" FEE #8	CONGER (PENN)	399.0	REATA INDUSTRIAL
8427795	F-08-078145	4243131418		103		STERLING "O" FEE #8	CONGER (PENN)	115.3	REATA INDUSTRIAL
8427728	F-08-076313	4243131388		103		V E BROWNFIELD #7	CONGER (PENN)	0.0	REATA INDUSTRIAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8427775	F-8A-077616	4221934157		103		W T COBLE "A" NCT-1 #31A
8427734	F-8A-076819	4216532549		103		WHARTON UNIT #120
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	04/06/84	JA: TX
8427615	F-03-053885	4214931291		102-2		HARRY SWOFFORD #1
-THE ANSCHUTZ CORPORATION				RECEIVED:	04/06/84	JA: TX
8427760	F-04-077233	4204731238		102-4		MESERVE MART #1
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	04/06/84	JA: TX
8427733	F-7C-076742	4210534631		103	107-TF	BAILEY #7
8427692	F-7C-075029	4210531329		103	107-TF	HEMPHILL #1
-TOT RICHARDS OIL CO				RECEIVED:	04/06/84	JA: TX
8427772	F-7B-077533	4244733726		102-4		JUSTIN #4 (GAS)
-TRIPLE-S VENTURES INC				RECEIVED:	04/06/84	JA: TX
8427712	F-02-075605	4246932070		102-4		JASCHKE #2
-TXO PRODUCTION CORP				RECEIVED:	04/06/84	JA: TX
8427706	F-05-075414	4216130806		102-4		AYCOCK 1-2
8427786	F-7C-077837	4210534548		103	107-TF	BAGGETT "A" #3
8427675	F-04-074227	4224931687		103		FRANK #1
8427629	F-02-069545	4223931851		102-4		GLOOR G U A-1
8427689	F-02-074945	4228531482		102-4		HANCOCK G U 3-3
8427631	F-06-070390	4240131654		103	107-TF	HENDERSON "E" #2
8427691	F-04-075017	4224931701		102-4		MOSSER TRUST B-1
8427686	F-02-074807	4217531760		103		SALYER G U A-2
8427705	F-05-075411	4216130169		102-4		UTLEY GAS UNIT 1-1
8427687	F-05-074900	4216130826		103	107-TF	WHATLEY "B" #1
8427688	F-05-074902	4229330684		102-4		WILLIAMS "O" 1-2
8427700	F-05-075318	4216130807		102-4		WILLIFORD "E" #1
8427696	F-7C-075220	4223532122		103		WINTERBOTHAM "J" #4
-U S OPERATING INC				RECEIVED:	04/06/84	JA: TX
8427792	F-03-078137	4228731313		102-2		LOU-ANN #1 RRC ID #N/A
8427791	F-03-078136	4228731448		102-2		NADINE #2 RRC ID #15460
8427757	F-03-077146	4228731447		102-2		OLEY #2 RRC ID #13388
8427723	F-03-076020	4228731454		103		PERRIANN #1 ID #17128
-UNION TEXAS PETROLEUM				RECEIVED:	04/06/84	JA: TX
8427644	F-8A-072638	4207931665		103		VEAL #5-R
-W B OSBORN OIL & GAS OPERATIONS				RECEIVED:	04/06/84	JA: TX
8427668	F-04-073553	4242731760		103		CAMERON/STATE
-WAGNER & BROWN				RECEIVED:	04/06/84	JA: TX
8427801	F-10-078222	4221131615		103		LOCKE #2-60
-WARRIOR OIL & GAS CORP				RECEIVED:	04/06/84	JA: TX
8427683	F-02-074572	4246932073		102-4		BIANCHI #1-W
-WESSELY ENERGY CORPORATION				RECEIVED:	04/06/84	JA: TX
8427806	F-05-078368	4216130849		103	107-TF	ALDERMAN #1 ( )
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	04/06/84	JA: TX
8427737	F-09-076850	4223735303		102-4	103	PEARL MOSLEY "A" #2
-WINCHESTER PRODUCTION CO				RECEIVED:	04/06/84	JA: TX
8427681	F-06-074435	4220331059		103	107-TF	KNIGHTON #3
-WISE PRODUCTION CO				RECEIVED:	04/06/84	JA: TX
8427810	F-7B-078449	4236732266		102-4		PHILLIPS "C" #1 (GAS)
-WOOD & LOCKER INC				RECEIVED:	04/06/84	JA: TX
8427632	F-08-070825	4217331388		102-4		HOUSTON #1
-YATES PETROLEUM CORPORATION				RECEIVED:	04/06/84	JA: TX
8427763	F-08-077277	4200333593		103		UNIVERSITY 7 WELL #7

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FIELD NAME	PROD	PURCHASER
LEVELLAND	6.2	AMOCO PRODUCTION
HARRIS	0.0	PHILLIPS PETROLEU
GIDDINGS (EDWARDS GAS	2190.0	PHILLIPS PETROLEU
FALFURRIAS (FRIO 7220	250.0	ESPERANZA TRANSMI
OZONA NE (CANYON 7520	300.0	PHILLIPS PETROLEU
OZONA NE (CANYON 7520	300.0	
TOT (GUNSIGHT)	219.0	HST GATHERING CO
WILDCAT (SEE F-1)	72.0	C B GAS GATHERING
MIMMS CREEK (BOSSIER)	0.0	UNITED TEXAS TRAN
OZONA NW	44.0	PRODUCERS GAS CO
ALICE (7150')	0.0	SOUTHERN GAS PIPE
MORALES (4190')	0.0	DELHI GAS PIPELIN
PROVIDENT CITY	0.0	TEXAS EASTERN TRA
HENDERSON N (COTTON V	0.0	UNITED GAS PIPELI
ALICE DEEP S W	0.0	REATA INDUSTRIAL
MAETZE (2940')	0.0	DELHI GAS PIPELIN
MIMMS CREEK (BOSSIER)	0.0	UNITED TEXAS TRAN
STEWARDS MILL (COTTON	0.0	DELHI GAS PIPELIN
TEAGUE S	0.0	DELHI GAS PIPELIN
REED N (BOSSIER)	0.0	TEXAS UTILITIES F
DOVE CREEK	290.0	NORTHERN NATURAL
GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
LEVELLAND	15.0	CITIES SERVICE CO
LINDA (5250 SAND)	30.0	BAM ENERGY INC
HEMPHILL (GRANITE WAS	822.3	MICHIGAN WISCONSI
NURSERY S (1880')	50.0	VICTORIA GAS CORP
TEAGUE WEST (COTTON V	300.0	TEXAS UTILITIES F
PEARL (BASIL) CONGLOM	0.0	SOUTHWESTERN GAS
WASKOM (COTTON VALLEY	0.0	TEXAS EASTERN TRA
MEEKER (CONGL 5100)	310.0	TEXAS UTILITIES F
DEWEY LAKE (ATOKA)	36.0	
FULLERTON	11.0	PHILLIPS PETROLEU

[FR Doc. 84-11748 Filed 4-30-84; 8:45 am]
BILLING CODE 6717-01-C

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NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 25, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease
Section 103: New onshore production well
Section 107-DP: 15,000 ft or deeper
107-GB: Geopressured brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1113

ISSUED APRIL 25, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427853	F-08-078898	4231732849		103		HAZELWOOD #2	SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
-ALLEN OIL CO				RECEIVED:	04/06/84	JA: TX			
8427860	F-7B-079050	4236732584		103		CARPENTER #1	MEEKER (CONGLOMERATE	470.9	TEXAS UTILITIES F
-ALPAR RESOURCES INC				RECEIVED:	04/06/84	JA: TX			
8427913	F-10-079711	4235731403		103		GOLF COURSE UNIT 1-1013	PERRYTON (FINGER)	5.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427855	F-03-078950	4224531711		103		JOHN W HALL #7	BEAUMONT WEST	36.5	AMOCO GAS CO
-APEX PETROLEUM INC				RECEIVED:	04/06/84	JA: TX			
8427979	F-7B-079882	4208333438		102-4		JOHN E WOLF #23 (19329)	WOLF (SERRATT LOWER)	29.0	EL PASO HYDROCARB
-ARKLA EXPLORATION COMPANY				RECEIVED:	04/06/84	JA: TX			
8427876	F-06-079275	4236531519		102-3	107-TF	FRANK W GRAY #1	CARTHAGE (COTTON VALL	456.0	ARKANSAS LOUISIAN
8427943	F-06-079803	4236531056		102-3	107-TF	Z L DANIEL #1	CARTHAGE COTTON VALLE	550.0	ARKANSAS LOUISIAN
-ARRINGTON BROTHERS				RECEIVED:	04/06/84	JA: TX			
8428070	F-10-080134	4206531570		103		ARRINGTON RANCH (05349) #3-64	PANHANDLE CARSON COUN	85.0	GETTY OIL CO
-AUGUSTA OIL & GAS INC				RECEIVED:	04/06/84	JA: TX			
8427896	F-7B-079623	4208333841		102-4		J W HARRIS ESTATE #33-1	HARRIS-PAULEY (FRYE)	503.7	EL PASO HYDROCARB
-BAR-MAC & HOLLUB DRILLING CO				RECEIVED:	04/06/84	JA: TX			
8427878	F-03-079332	4205132604		102-4		SUN-WILLARD #2	INEZ JAMESON (NAVARRO	45.0	FERGUSON CROSSING
-BARCO INDUSTRIES INC				RECEIVED:	04/06/84	JA: TX			
8427865	F-7B-079157	4208333729		102-4		BARCO/NEWTON "A" #6 (GAS)	DUSTY (GRAY)	1460.0	UNION TEXAS PETRO
-BEARD OIL COMPANY				RECEIVED:	04/06/84	JA: TX			
8427859	F-06-079021	4241930469		102-2	103	SIMPSON FEDERAL #1	MEI (PETTIT)	1095.0	
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	04/06/84	JA: TX			
8427883	F-09-079379	4223735588		103		HILLTOP #1	DEARING (STRAWN)	45.0	LONE STAR GAS CO
-BISON PETROLEUM CORP				RECEIVED:	04/06/84	JA: TX			
8428038	F-10-080003	4235700000		108		PEARSON HEIRS #1 071375	HANSFORD (MORROW LOWE	21.0	DIAMOND CHEMICALS
-BTA OIL PRODUCERS				RECEIVED:	04/06/84	JA: TX			
8427833	F-08-078740	4217331432		102-4		7613 JV-P CALVERLEY-26-#2	BLALOCK LAKE S E (WOL	36.0	PHILLIPS PETROLEU
-BURK ROYALTY CO				RECEIVED:	04/06/84	JA: TX			
8427895	F-09-079609	4248731708		103		FRANK H SIMS #1	WILBARGER COUNTY REGU	0.0	KIBO COMPRESSOR C
8427933	F-09-079778	4248731658		103		SCHOPPA #2	WILBARGER COUNTY REGU	0.0	KIBO COMPRESSOR C
-BURNS PETROLEUM				RECEIVED:	04/06/84	JA: TX			
8427906	F-09-079680	4200938023		103		COWAN & MCKINNEY GG #3	ARCHER COUNTY REGULAR	18.0	ASSOCIATED GATHER
-CADDO PRODUCTION				RECEIVED:	04/06/84	JA: TX			
8427941	F-10-079794	4217931462		103		FAITH #2 (ID# 05441)	PANHANDLE GRAY	69.0	CABOT PIPELINE CO
-CAL-T OIL CO				RECEIVED:	04/06/84	JA: TX			
8427972	F-10-079870	4223300000		108		CARVER "A" #5 (01112)	PANHANDLE - HUTCHINSO	20.8	DIAMOND CHEMICALS
8427977	F-10-079876	4223300000		108		CARVER AREA WATERFLOOD 1 #22 02712	PANHANDLE - HUTCHINSO	15.0	DIAMOND CHEMICALS
8427975	F-10-079873	4223300000		108		CARVER AREA WATERFLOOD 1 #28 02712	PANHANDLE - HUTCHINSO	17.5	DIAMOND CHEMICALS
8427974	F-10-079872	4223300000		108		CARVER AREA WATERFLOOD 1 6 (02712)	PANHANDLE - HUTCHINSO	15.0	DIAMOND CHEMICALS
8427973	F-10-079871	4223300000		108		CARVER AREA WATERFLOOD 2 #27 00729	PANHANDLE - HUTCHINSO	17.0	DIAMOND CHEMICALS
8427971	F-10-079869	4223300000		108		HARRINGTON #1 (00976)	PANHANDLE - HUTCHINSO	18.2	PHILLIPS PETROLEU
8427976	F-10-079874	4223300000		108		HARRINGTON #2 (00976)	PANHANDLE - HUTCHINSO	18.2	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/06/84	JA: TX			
8428005	F-04-079927	4235500000		108		DONALD INGRAM #10	AGUA DULCE (5450)	0.0	TENNESSEE GAS PIP

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8427839	F-03-078808	4205132502		102-2		ELDIE LEE KOEHLER #2
8427840	F-03-078809	4205100000		102-2		WILLIAM A LANGE #3
-CHEVRON U S A INC				RECEIVED:	04/06/84	JA: TX
8428020	F-08-079971	4222733128		103		A M BELL #50
8428015	F-08-079963	4200333819		103		COLUMBUS GRAY 19-26
8428014	F-08-079962	4200333818		103		COLUMBUS GRAY 21-27
8428013	F-08-079961	4200333820		103		COLUMBUS GRAY 22-26
8428012	F-08-079959	4200333821		103		COLUMBUS GRAY 22-28
8427907	F-08-079684	4247533103		103		J F YORK #580
8427908	F-08-079685	4247533104		103		J F YORK 570
8428018	F-8A-079966	4241532488		103		SACROC UNIT #170-4
8428019	F-8A-079967	4241532489		103		SACROC UNIT #269-5
8427958	F-8A-079848	4241532470		103		SACROC UNIT #37-10
8427957	F-8A-079847	4241532486		103		SACROC UNIT #46-14
8427956	F-8A-079846	4241532477		103		SACROC UNIT #49-14
8428016	F-8A-079964	4241532464		103		SACROC UNIT #86-13
8428017	F-8A-079965	4241532487		103		SACROC UNIT #90-5
8427955	F-8A-079845	4241532500		103		SACROC UNIT NO 49-15
8427909	F-08-079686	4249531609		103		VEST RANCH 19
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	04/06/84	JA: TX
8427832	F-09-078736	4249732631		103		WEST CHICO UNIT #803 .
-CLIFFS DRILLING CO				RECEIVED:	04/06/84	JA: TX
8427864	F-03-079134	4245730345		102-2		CARTER W T #1
-COLLIER DIAMOND "C" OILS INC				RECEIVED:	04/06/84	JA: TX
8428058	F-08-080057	4231732784		103		AMOCO-BLANCHE #1 RRC #28626
8428059	F-08-080058	4231732783		103		LUCY #1 RRC #28646
8428060	F-08-080059	4231732785		103		NETTIE FAYE #1 RRC #28614
-CONE & PETREE OIL & GAS EXPL INC				RECEIVED:	04/06/84	JA: TX
8427964	F-08-079852	4200333465		103		LIMPIA #1
-CONOCO INC				RECEIVED:	04/06/84	JA: TX
8427886	F-8A-079434	4207931833		103		CONOCO DEAN UNIT #138 ID 60106
8428099	F-01-080248	4232332117		103		N J CHITTIM #6945
8428100	F-01-080249	4232332118		103		N J CHITTIM #6946
8428101	F-01-080250	4232332119		103		N J CHITTIM #6947
8428102	F-01-080251	4232332114		103		N J CHITTIM #6948
8428103	F-01-080252	4232332113		103		N J CHITTIM #6949
8428104	F-01-080253	4232332112		103		N J CHITTIM #6950
8428105	F-01-080254	4232332111		103		N J CHITTIM #6951
8428106	F-01-080256	4232332062		103		N J CHITTIM #6953
8428107	F-01-080257	4232332061		103		N J CHITTIM #6954
8428108	F-01-080258	4232332060		103		N J CHITTIM #6955
8428109	F-01-080259	4232332109		103		N J CHITTIM #6956
8428110	F-01-080260	4232332078		103		N J CHITTIM #6957
8428111	F-01-080261	4232332077		103		N J CHITTIM #6958
8428112	F-01-080262	4232332076		103		N J CHITTIM #6959
-COPET INC				RECEIVED:	04/06/84	JA: TX
8428007	F-7B-079942	4204900000		108		HERBERT HUTTON #2 (RRC: 101140)
8428008	F-7B-079944	4204900000		108		NESBIT RICE #11 (RRC: 103836)
8428009	F-7B-079945	4204933427		108		NESBIT RICE #13 (RRC: 104137)
8428010	F-7B-079946	4204900000		108		STONE-STEPHENS #10 (RRC: 071662)
8428011	F-7B-079947	4204900000		108		STONE-STEPHENS #6 (RRC: 069713)
-COTTON PETROLEUM CORPORATION				RECEIVED:	04/06/84	JA: TX
8427944	F-10-079804	4229530286		108		BORN "B" #2
-CREWS OIL CO				RECEIVED:	04/06/84	JA: TX
8428074	F-7C-080149	4239933051		102-4		ALEXANDER #2 09975
8428073	F-7C-080147	4239932951		102-4		THORA IRWIN #1 10193
-DAMSON OIL CORPORATION				RECEIVED:	04/06/84	JA: TX
8427828	F-7B-078705	4242931914		103		BISHOP UNIT #1
-DISCOVERY OIL CORP				RECEIVED:	04/06/84	JA: TX
8427842	F-7B-078817	4208333821		102-4		GLENDA GASSIOTT #1 (GAS)
-DOUBLE B OIL & GAS				RECEIVED:	04/06/84	JA: TX
8427921	F-02-079738	4228531444		103		VIOLA DEBORD #1
-DYNE OIL & GAS INC				RECEIVED:	04/06/84	JA: TX
8428075	F-10-080166	4217931049		103		SKIDMORE #11 (RRC #00434)
-EADS OPERATING CO				RECEIVED:	04/06/84	JA: TX
8427854	F-02-078948	4246932054		103		ADCOCK #2
-ENERGY RESERVES GROUP INC				RECEIVED:	04/06/84	JA: TX
8428061	F-06-080063	4249131245		102-3		JENNIE ALLEN #1
-ENSERCH EXPLORATION INC				RECEIVED:	04/06/84	JA: TX
8427927	F-09-079750	4249732389		103		CRAFT WATER BOARD UNIT 7 #2
-EXXON CORPORATION				RECEIVED:	04/06/84	JA: TX
8427850	F-03-078885	4205132533		102-2		BILLIE EHLERT #4
8427844	F-03-078872	4205132567		102-2		BILLIE EHLERT #6
8428040	F-04-080005	4240931685		103		BLASCHKE MAYO #17 #108270
8427981	F-03-079887	4233930616		103		CONROE FIELD UNIT #220
8427843	F-03-078871	4205132532		102-2		COOKS POINT UNIT #10 #1
8427869	F-03-079219	4205132581		102-2		COOKS POINT UNIT #4 #2
8427851	F-03-078886	4205132551		102-2		COOKS POINT UNIT 8 #2
8428064	F-03-080099	4220131588		103		E F MILO #17
8428057	F-04-080056	4235532168		103		E FLOUR BLUFF DEEP D-17 108413
8427980	F-08-079884	4230130319		107-DP		GLENN S BRUNSON B #1
8427837	F-08-078782	4210333317		103		J B TUBB B #33
8427825	F-08-078649	4210333318		103		J B TUBB F #23
8427824	F-08-078648	4210333315		103		J B TUBB F#24
8427982	F-03-079889	4247330401		103		KATY GAS FIELD CONS UNIT #8307
8428039	F-04-080004	4227331801		102-4		KING RANCH RANCHO PLOMO 26 (10381)
8428055	F-04-080054	4226130827		102-4		MRS S K EAST ESTATE "B" 5-F 108738
8428056	F-04-080055	4226130836		102-4		MRS S K EAST ESTATE "B" 6-D 107999
8427838	F-08-078790	4247500000		107-PE		PYOTE GAS UNIT 4-1
-FAGADAU ENERGY CORP				RECEIVED:	04/06/84	JA: TX
8428066	F-09-080101	4207733022		102-4		SCALING RANCH "F" #5
-FLAG-REDFERN OIL CO				RECEIVED:	04/06/84	JA: TX
8427875	F-08-079269	4237134561		103		MCDONALD #3-U
-GETTY OIL COMPANY				RECEIVED:	04/06/84	JA: TX
8427960	F-8A-079817	4221900000		108		H E THRUSTON #1
8427961	F-8A079818	4221900000		108		H E THRUSTON #3
-GO OIL CORP				RECEIVED:	04/06/84	JA: TX
8427870	F-09-079220	4212130440		102-4		AAT-UPRIC #1
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/06/84	JA: TX
8427945	F-06-079805	4236531236		103		J M FURRH ESTATE #1
-GULF OIL CORPORATION				RECEIVED:	04/06/84	JA: TX
8427926	F-08-079745	4213534342		103		GOLDSMITH C A ETAL #1389
8427924	F-08-079743	4213534279		103		GOLDSMITH C A ETAL #1394
8427925	F-08-079744	4213534301		103		GOLDSMITH C A ETAL #1400

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FIELD NAME	PROD	PURCHASER
GIDDINGS (AUSTIN CHAL	84.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
IATAN EAST HOWARD	9.1	GETTY OIL CO
FUHRMAN-MASCHO	2.7	PHILLIPS PETROLEU
FUHRMAN-MASCHO	1.5	PHILLIPS PETROLEU
FUHRMAN-MASCHO	11.3	PHILLIPS PETROLEU
FUHRMAN-MASCHO	16.8	PHILLIPS PETROLEU
WARD SOUTH (QUEEN SAN	1.1	NUECES CO
WARD SOUTH (QUEEN SAN	0.4	NUECES CO
KELLY - SNYDER	30.0	EL PASO NATURAL G
KELLY - SNYDER	25.0	EL PASO NATURAL G
KELLY - SNYDER	9.0	EL PASO NATURAL G
KELLY - SNYDER	87.0	EL PASO NATURAL G
KELLY - SNYDER	117.0	EL PASO NATURAL G
KELLY - SNYDER	66.0	EL PASO NATURAL G
KELLY - SNYDER	44.0	EL PASO NATURAL G
KELLY - SNYDER	11.0	EL PASO NATURAL G
ARENOSO	29.9	PHILLIPS PETROLEU
CHICO WEST (CADDO CON	43.0	
MICHENER	700.0	HOUSTON PIPELINE
SPRAYBERRY TREND AREA	15.0	GETTY OIL CO
SPRAYBERRY TREND AREA	15.0	GETTY OIL CO
SPRAYBERRY TREND AREA	15.0	GETTY OIL CO
FUHRMAN-MASCHO	36.5	PHILLIPS PETROLEU
SLAUGHTER	4.4	AMOCO PRODUCTION
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
BROWN CO REGULAR (MAR	14.4	LONE STAR GAS CO
BROWN CO REGULAR (MAR	12.0	EL PASO HYDROCARB
BROWN CO REGULAR (MAR	4.0	EL PASO HYDROCARB
BROWN CO REGULAR (MAR	2.5	EL PASO HYDROCARB
BROWN CO REGULAR (MAR	1.2	EL PASO HYDROCARB
MAMMOTH CREEK (NORTH	0.0	DIAMOND CHEMICALS
CREWS (FRY LOWER)	105.0	LONE STAR GAS CO
PETRIE (GARDNER)	35.0	LONE STAR GAS CO
STEPHENS COUNTY REGUL	2.5	WARREN PETROLEUM
WILDCAT	1095.0	EL PASO HYDROCARB
MATUS (600)	198.0	
PANHANDLE	0.0	GETTY OIL CO
RICHARD ADCOCK (800)	141.0	LONE STAR GAS CO
MINDEN W	270.0	TEXAS UTILITIES F
BOONSVILLE	0.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	28.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	28.0	FERGUSON CROSSING
PLYMOUTH (I-47)	432.2	ARMCO STEEL CORP
CONROE	73.0	MORAN UTILITIES C
GIDDINGS (AUSTIN CHAL	28.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	28.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	28.0	FERGUSON CROSSING
TOMBALL (SCHULTZ SE)	15.0	NATURAL GAS PIPEL
FLOUR BLUFF EAST DEEP	980.4	ARMCO STEEL CORP
BRUNSON RANCH (PENN L	258.0	
SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
SAND HILLS (JUDKINS)	141.0	EL PASO NATURAL G
KATY (V)	365.0	UNITED TEXAS TRAN
BIG CAESAR S (AUSTIN	213.0	ARMCO STEEL CORP
POTRERO FARIAS (G-91)	518.0	ARMCO STEEL CORP
POTRERO FARIAS (G-94)	700.0	ARMCO STEEL CORP
BLOCK 16 (DEVONIAN)	87.6	TEXAS UTILITIES F
TALLY (MARBLE FALLS)	64.0	BLUEGROVE GASOLIN
	730.0	DELHI GAS PIPELIN
LEVELLAND	0.7	AMOCO PRODUCTION
LEVELLAND	2.5	AMOCO PRODUCTION
MONTEATH (CADDO)	0.0	LONE STAR GAS CO
BETHANY (TENNY SAND)	0.0	
GOLDSMITH (CLEARFORK)	12.1	PHILLIPS PETROLEU
GOLDSMITH (DEVONIAN)	1.6	PHILLIPS PETROLEU
GOLDSMITH (5600)	31.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8427922	F-08-079740	4213534371		103		GOLDSMITH C A ETAL #1417	GOLDSMITH (5600)	31.6	PHILLIPS PETROLEU
8427821	F-08-078592	4230130435		103		TXL "AI" (NCT-D) #1	DIMMITT (CHERRY CANYO	12.7	PHILLIPS PETROLEU
8427923	F-08-079741	4230130439		103		TXL "AI" (NCT-D) #2	DIMMITT (CHERRY CANYO	29.5	PHILLIPS PETROLEU
-H & L ENTERPRISES				RECEIVED:	04/06/84	JA: TX			
8427951	F-10-079824	4206531398		103		BOBBITT #1-66 (ID#)	PANHANDLE CARSON	40.0	GETTY OIL CO
-HALLROC JOINT VENTURE				RECEIVED:	04/06/84	JA: TX			
8427904	F-7B-079663	4236732576		102-4		VAUGHN #1	MOBY DICK (STRAWN)	42.0	SOUTHWESTERN GAS
-HARRIS R FENDER				RECEIVED:	04/06/84	JA: TX			
8427905	F-06-079679	4242330754		102-4		HELEN Y SHERMAN #1	DRISKELL LAKE (RODESS	38.0	LONE STAR GAS CO
-HEXAGON OIL & GAS INC				RECEIVED:	04/06/84	JA: TX			
8427959	F-7B-079850	4214330797		102-4	103	A W RASBERRY #1	LIBERTY OAK (BIG SALI	292.0	INTRASTATE GATHER
8427963	F-7B-079851	4214330799		102-4	103	A W RASBERRY "A" #2	LIBERTY OAK (BIG SALI	388.0	INTRASTATE GATHER
-IKE LOVELADY INC				RECEIVED:	04/06/84	JA: TX			
8428076	F-08-080171	4237132582		103		IOWA REALTY TRUST #1	LEHN APCO S (WICHITA	365.0	ADOBE GAS CO
-INDIAN WELLS OIL CO				RECEIVED:	04/06/84	JA: TX			
8427950	F-7C-079816	4223532199		103		BROOKS 1-1	SHERWOOD (WOLFCAMP)	0.0	NORTHERN NATURAL
8427949	F-7C-079815	4223532218		103		BROOKS 1026-1	BROOKS (CANYON K)	0.0	NORTHERN NATURAL
8427948	F-7C-079813	4223532178		103		BROOKS 12-3	BROOKS (CANYON K)	0.0	NORTHERN NATURAL
8427827	F-7C-078698	4223532181		103		BROOKS 13-2	BROOKS (CANYON K)	0.0	NORTHERN NATURAL
8427822	F-7C-078621	4223532176		102-2		ROCKER B 1945 1/2 - 2	ROCKER B - EAST (PENN	0.0	NORTHERN NATURAL
-J R PARTEN				RECEIVED:	04/06/84	JA: TX			
8427830	F-03-078728	4222530501		102-4		FARMERS OIL CO #3	FT TRINIDAD W (GLEN R	1200.0	MADISON PIPE LINE
8427831	F-03-078730	4231330456		102-4		L A WAKEFIELD GAS UNIT #1	FT TRINIDAD W (GLEN R	219.0	RAINBOW PIPE LINE
-JONES CO				RECEIVED:	04/06/84	JA: TX			
8427946	F-7B-079806	4225332593		103		CROW "B" #1 (20230)	MINTER	30.0	CONOCO INC
8427947	F-7B-079807	4225332561		103		HERMAN WOOD #1 (20030)	MINTER	30.0	CONOCO INC
8427889	F-7B-079506	4241735593		102-4		NEWELL "12" #1	MATTHEWS (CONGLOMERAT	110.0	DELHI GAS PIPELIN
8427866	F-7B-079159	4241735535		102-4		NEWELL "9" #2	NEWELL (SWASTIKA)	100.0	DELHI GAS PIPELIN
-KENDRICK OIL CO				RECEIVED:	04/06/84	JA: TX			
8427920	F-7B-079735	4220730883		102-4		T G HENDRICK EST TRACT 6 #3 103802	HENDRICK (COOK)	313.0	HASKELL GATHERING
-KERR-MCGEE CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427984	F-10-079904	4223300000		108		COCKRELL #1	PANHANDLE (HUTCHINSON	1.1	GETTY OIL CO
8427988	F-10-079908	4223300000		108		COCKRELL #11	PANHANDLE (HUTCHINSON	1.6	GETTY OIL CO
8427989	F-10-079909	4223300000		108		COCKRELL #12	PANHANDLE (HUTCHINSON	2.6	GETTY OIL CO
8427990	F-10-079910	4223300000		108		COCKRELL #13	PANHANDLE (HUTCHINSON	3.5	GETTY OIL CO
8427991	F-10-079911	4223300000		108		COCKRELL #14	PANHANDLE (HUTCHINSON	1.0	GETTY OIL CO
8427992	F-10-079912	4223300000		108		COCKRELL #15	PANHANDLE (HUTCHINSON	4.1	GETTY OIL CO
8427993	F-10-079913	4223300000		108		COCKRELL #17	PANHANDLE (HUTCHINSON	3.7	GETTY OIL CO
8427994	F-10-079914	4223300000		108		COCKRELL #18	PANHANDLE (HUTCHINSON	2.1	GETTY OIL CO
8427985	F-10-079905	4223300000		108		COCKRELL #2	PANHANDLE (HUTCHINSON	2.0	GETTY OIL CO
8427995	F-10-079915	4223320759		108		COCKRELL #20	PANHANDLE (HUTCHINSON	1.3	GETTY OIL CO
8427996	F-10-079916	4223330801		108		COCKRELL #24	PANHANDLE (HUTCHINSON	4.8	GETTY OIL CO
8427997	F-10-079917	4223330803		108		COCKRELL #25	PANHANDLE (HUTCHINSON	2.9	GETTY OIL CO
8427998	F-10-079918	4223330798		108		COCKRELL #26	PANHANDLE (HUTCHINSON	1.6	GETTY OIL CO
8427999	F-10-079919	4223330815		108		COCKRELL #28	PANHANDLE (HUTCHINSON	1.3	GETTY OIL CO
8428000	F-10-079920	4223330847		108		COCKRELL #30	PANHANDLE (HUTCHINSON	3.7	GETTY OIL CO
8428001	F-10-079921	4223330831		108		COCKRELL #31	PANHANDLE (HUTCHINSON	1.5	GETTY OIL CO
8428002	F-10-079922	4223330712		108		COCKRELL #32	PANHANDLE (HUTCHINSON	1.4	GETTY OIL CO
8428003	F-10-079923	4223330985		108		COCKRELL #33	PANHANDLE (HUTCHINSON	1.0	GETTY OIL CO
8427986	F-10-079906	4223300000		108		COCKRELL #5	PANHANDLE (HUTCHINSON	7.2	GETTY OIL CO
8427987	F-10-079907	4223300000		108		COCKRELL #8	PANHANDLE (HUTCHINSON	1.0	GETTY OIL CO
8427897	F-10-079647	4223330778		108		PITTS #103	PANHANDLE	5.7	GETTY OIL CO
-KEY PRODUCTION COMPANY				RECEIVED:	04/06/84	JA: TX			
8427823	F-06-078628	4241930461		103		ED CHILDRESS #2	JOAQUIN (TRAVIS PEAK)	700.0	SOUTHERN NATURAL
-L & B OIL CO INC				RECEIVED:	04/06/84	JA: TX			
8427868	F-03-079198	4204131071		102-4		COBB UNIT 5 WELL #1	IOLA SOUTH (SUB-CLARK	110.0	PRODUCER'S GAS CO
8427841	F-08-078815	4217331499		102-4		EDITH BOOKS #2	DEWEY LAKE S (STRAWN)	200.0	PHILLIPS PETROLEU
8428067	F-08-080119	4217331514		102-4		HALFMANN #2	DEWEY LAKE S (STRAWN)	140.0	PHILLIPS PETROLEU
-LEAR OIL & GAS INC				RECEIVED:	04/06/84	JA: TX			
8428072	F-10-080136	4217931472		103		SANDRA (05595) #2	PANHANDLE GRAY COUNTY	25.0	CABOT PIPELINE CO
-MARALO INC				RECEIVED:	04/06/84	JA: TX			
8427879	F-08-079336	4210333241		103		T C BARNSLEY #2T	LEA (TUBB)	5.0	WARREN PETROLEUM
-MEG PETROLEUM CORP				RECEIVED:	04/06/84	JA: TX			
8427935	F-7C-079782	4223531968		102-2	103	LOPEZ CREEK #9	ROCK PEN (CANYON)	18.6	NORTHERN NATURAL
8427936	F-7C-079783	4232730560		102-4	103	PFLUGER RANCH SOUTH #2	CELERY (STRAWN 2975)	100.0	J L DAVIS
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427835	F-09-078773	4249732635		103		C R BRIDGES GU #2	BOONSVILLE (BEND CONG	903.2	NATURAL GAS PIPEL
8427834	F-09-078772	4249732572		103		U A MOLLOY #2	BOONSVILLE (BEND CONG	30.1	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/06/84	JA: TX			
8428037	F-8A-080001	4216532645		103		H & J SECTION 325 #14	ROBERTSON N (CLEARFOR	8.0	PHILLIPS PETROLEU
8428006	F-8A-079928	4221934120		103		NORTH CENTRAL LEVELLAND UNIT #392	LEVELLAND	0.7	AMOCO PRODUCTION
-MONSANTO COMPANY				RECEIVED:	04/06/84	JA: TX			
8427937	F-8A-079789	4207931850		103		REED #3-4	LEVELLAND	9.0	CITIES SERVICE OI
8427939	F-08-079791	4200333891		103		UNIVERSITY "B" 14-19 #7	SHAFTER LAKE (SAN AND	4.0	PHILLIPS PETROLEU
8427938	F-08-079790	4200333893		103		UNIVERSITY "B" 14-19 #8	SHAFTER LAKE (SAN AND	13.0	PHILLIPS PETROLEU
-MOWTERO OPERATING INC				RECEIVED:	04/06/84	JA: TX			
8427983	F-7C-079902	4208131200		103		HIGGINS #3	JAMESON (STRAWN)	91.3	SUN EXPLORATION &
8427874	F-08-079262	4235331549		103		WALKER "A" #1	JAMESON N (ODOM)	146.0	SUN EXPLORATION &
-MORROW RESOURCES INC				RECEIVED:	04/06/84	JA: TX			
8427861	F-7C-079105	4245131294		102-2	103	CARGILE 1120 #1	JJ (CANYON)	53.7	LONE STAR GAS CO
8427862	F-7C-079106	4245131333		102-2	103	CRAWFORD #1	FORTSON-BURKE	880.5	
-MOSBACHER PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427856	F-06-078959	4200131427		102-2		HEIDLEBERG ESTATE UNIT #1	R A M (PETIT 12300) F	400.0	
-MWJ PRODUCING CO				RECEIVED:	04/06/84	JA: TX			
8427940	F-7C-079793	4223532143		103		JAY "A" #4	CHRISTI (CANYON 6800)	18.0	NORTHERN NATURAL
-NEUMIN PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8427882	F-02-079377	4205731286		103		STATE TRACT 200 WELL 2-F	GRASS ISLAND W (2850'	693.0	ALUMINUM CO OF AM
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	04/06/84	JA: TX			
8427858	F-03-079020	4232132150		102-4		L CORNELIUS #4 108519	WADSWORTH S (TEX-MISS	156.0	DOW CHEMICAL U S
-ONEOK EXPLORATION CO				RECEIVED:	04/06/84	JA: TX			
8427885	F-10-079428	4229531348		103		WESLEY #3	DARREN (MORROW MIDDLE	50.0	NORTHERN NATURAL
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/06/84	JA: TX			
8427836	F-04-078776	4213136359		102-4		C W HAHL #1	EAST 76 (WILCOX)	304.0	
8427912	F-04-079707	4221500000		108		KAWAHATA UNIT NO 3-M	HIDALGO (BELL)	5.0	VAL GAS CO
-PETER HENDERSON OIL CO				RECEIVED:	04/06/84	JA: TX			
8428065	F-7C-080100	4245131319		102-2	103	TARA TURNER #10	T-D (6575)	16.4	ESPERANZA PIPELIN
-PETRO-LEWIS CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427826	F-8A-078670	4250132340		102-4		CHOATE #1	JANICE (WOLFCAMP)	0.0	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/06/84	JA: TX			
8427978	F-10-079878	4217900000		108		GETHING #7	PANHANDLE GRAY	0.0	
-PRODUCTION ACQUISITION CO				RECEIVED:	04/06/84	JA: TX			
8428063	F-03-080092	4208930896		102-4		SCHILLER - PRESLEY #1	ALTAIR S (FRIO 3270)	208.8	UNITED TEXAS TRAN
-PYRO ENERGY CORP				RECEIVED:	04/06/84	JA: TX			
8428034	F-7B-079997	4215100000		108		ANNE MOORE WELL #2	NEILL S (ODOM LIME)	5.1	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8428031	F-7B-079994	4215100008		108		CARLTON WELL #1	NEILL S (ODOM LIME)	3.0	EL PASO NATURAL G
8428032	F-7B-079995	4215100000		108		KINSEY UNIT "A" WELL #1	NEILL S (ODOM LIME)	4.0	EL PASO NATURAL G
8428029	F-7B-079992	4235300000		108		MAY SEARS "B" WELL #3	NEILL S (ODOM LIME)	1.3	EL PASO NATURAL G
8428028	F-7B-079991	4235300000		108		MAY SEARS "C" WELL #1	NEILL S (ODOM LIME)	2.5	EL PASO NATURAL G
8428035	F-7B-079998	4215100000		108		NORTON "A" WELL #2	NEILL S (ODOM LIME)	7.1	EL PASO NATURAL G
8428030	F-7B-079993	4215100000		108		NORTON B WELL #1	NEILL S (ODOM LIME)	3.1	EL PASO NATURAL G
8428033	F-7B-079996	4215100000		108		R B JOHNSTON WELL #1	NEILL S (ODOM LIME)	1.6	EL PASO NATURAL G
-Q E D EXPLORATION INC				RECEIVED:	04/06/84	JA: TX			
8427819	F-7C-078568	4223532195		102-2	103	FARMAR-SUGG #13	ROCK PEN (CANYON)	0.0	FARMLAND INDUSTRI
8427820	F-7C-078569	4223532233		102-2	103	FARMAR-SUGG #15	LUCKY-MAG (CLEAR FORK	0.0	FARMLAND INDUSTRI
-QUESTA OIL & GAS CO				RECEIVED:	04/06/84	JA: TX			
8427954	F-7C-079830	4210534664		103	107-TF	CHILDRESS 101-1	OZONA (CANYON SAND)	0.0	VALERO TRANSMISSI
8427953	F-7C-079828	4210534591		103	107-TF	PIERCE-STATE 106-2	OZONA (CANYON SAND)	0.0	VALERO TRANSMISSI
-RICHEY & CO INC				RECEIVED:	04/06/84	JA: TX			
8427894	F-7B-079601	4213335206		102-4		H E WHITE "A" #1	SNOW	65.0	ENSERCH EXPLORATI
8427892	F-7B-079537	4213335426		102-4		H E WHITE "B" #1	SNOW	32.0	ENSERCH EXPLORATI
-RK PETROLEUM CORP				RECEIVED:	04/06/84	JA: TX			
8427899	F-08-079651	4231732812		103		STEWART "A" #2	SPRABERRY (TREND AREA	36.5	PHILLIPS PETR CO
-S & J OPERATING CO				RECEIVED:	04/06/84	JA: TX			
8427890	F-09-079518	4249732686		103		D M HOLT #2	ALVORD SOUTH (ATOKA 5	110.0	CITIES SERVICE OI
-S K ROGERS OIL CO				RECEIVED:	04/06/84	JA: TX			
8427893	F-8A-079545	4221934166		103		STANLEY "A" #1	LEVELLAND	5.0	CABOT PIPELINE CO
-SAMEDAN OIL CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427863	F-05-079108	4216130824		103	107-TF	IRVIN GAS UNIT #2	TEAGUE (COTTON VALLEY	365.0	LONE STAR GAS CO
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	04/06/84	JA: TX			
8427846	F-03-078875	4228731430		103		BIGON-MIERTSCHIN UNIT #1	GODDOMGS (BUDA)	0.3	PERRY PIPELINE CO
8427852	F-03-078897	4228731412		103		HOBRATSCHK UNIT #1	GIDDINGS (BUDA)	91.0	PERRY PIPELINE CO
8427848	F-03-078877	4228731437		102-2		MELTON #1	GIDDINGS (AUSTIN CHAL	273.0	PERRY PIPELINECO
8427847	F-03-078876	4228731311		103		MONROE #1	GIDDINGS (AUSTIN CHAL	50.0	PERRY PIPELINE CO
8427845	F-03-078873	4228731455		103		WEISER #2	GIDDINGS (BUDA)	3.0	PERRY PIPELINE CO
8427849	F-03-078878	4228731348		103		WILBANKS #2	GIDDINGS (BUDA)	146.0	PERRY PIPELINE CO
-SHELL WESTERN E&P INC				RECEIVED:	04/06/84	JA: TX			
8427877	F-01-079311	4231131985		102-4		BRACKEN #6	A W P (OLMOS)	100.0	HPI TRANSMISSION
-STAHL PETROLEUM CO				RECEIVED:	04/06/84	JA: TX			
8428068	F-10-080120	4248331092		103		LAYCOCK #2	EAST PANHANDLE	0.0	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/06/84	JA: TX			
8428089	F-7B-080210	4215100000		108		A E PARDUE A/C 1 #14	PARDUE	0.3	DAMSON GAS PROCES
8428022	F-8A-079974	4250132367		103		B L GILSTRAP NO 7	OWNBY	11.0	AMOCO PRODUCTION
8428079	F-8A-080192	4250100000		108		BENNETT RANCH UNIT #207	WASSON	1.0	SHELL OIL CO
8427915	F-04-079719	4242731833		102-4		C L DE GARZA #36	SUN NORTH	408.0	FLORIDA GAS TRANS
8427968	F-08-079865	4246132014		103		DAMRON "192-B" #5	MCELROY	6.0	PHILLIPS PETROLEU
8427966	F-03-079860	4237330403		103		DR H J PRATT #17	LIVINGSTON	44.0	CHANNEL INDUSTRIE
8428082	F-7B-080195	4242932558		103		EAST ELIASVILLE (CADDO) UNIT #106	STEPHENS COUNTY REGUL	47.0	BRECKENRIDGE GASO
8427970	F-7B-079868	4242933875		103		EAST ELIASVILLE (CADDO) UNIT #158	STEPHENS COUNTY REGUL	23.0	BRECKENRIDGE GASO
8427916	F-7B-079720	4242932562		103		EAST ELIASVILLE (CADDO) UNIT NO 104	STEPHENS COUNTY REGUL	29.0	BRECKENRIDGE GASO
8428097	F-7B-080219	4242900000		108		EAST ELIASVILLE (CADDO) UT #126	STEPHENS COUNTY REGUL	0.4	BRECKENRIDGE GASO
8428095	F-7B-080217	4242900000		108		EAST ELIASVILLE (CADDO) UT #133	STEPHENS COUNTY REGUL	0.3	BRECKENRIDGE GASO
8428098	F-7B-080220	4242900000		108		EAST ELIASVILLE (CADDO) UT #147	STEPHENS COUNTY REGUL	0.3	BRECKENRIDGE GASO
8428096	F-7B-080218	4242900000		108		EAST ELIASVILLE (CADDO) UT #67	STEPHENS COUNTY REGUL	0.3	BRECKENRIDGE GASO
8428087	F-7B-080201	4242900000		108		ELIASVILLE CADDO UNIT #100	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428086	F-7B-080200	4242900000		108		ELIASVILLE CADDO UNIT #109	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428094	F-7B-080216	4242900000		108		ELIASVILLE CADDO UNIT #111	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428084	F-7B-080198	4242900000		108		ELIASVILLE CADDO UNIT #125	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428092	F-7B-080213	4242900000		108		ELIASVILLE CADDO UNIT #132	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428085	F-7B-080199	4242900000		108		ELIASVILLE CADDO UNIT #64	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428083	F-7B-080197	4242900000		108		ELIASVILLE CADDO UNIT #66	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428093	F-7B-080214	4242900000		108		ELIASVILLE CADDO UNIT #76	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8428091	F-7B-080212	4242900000		108		ELIASVILLE CADDO UNIT #78	STEPHENS COUNTY REGUL	0.1	BRECKENRIDGE GASO
8427965	F-03-079859	4233930386		102-4		FOSTER #34	CONROE SOUTH	100.0	UNITED TEXAS TRAN
8428026	F-7C-079981	4246132066		103		JACOBS LIVESTOCK "B" #2	HELUMA S E (DEVONIAN)	115.0	PHILLIPS PETROLEU
8428023	F-08-079975	4222733296		103		M C HYDEN #8	LUTHER SE (SILURIAN D	82.0	GETTY OIL CO
8428080	F-08-080193	4249500000		108		M J HILL -23A- #28	HALLEY	11.0	TRANSWESTERN PIPE
8428024	F-08-079979	4249500000		108		M J HILL #24U	HALLEY	0.8	TRANSWESTERN PIPE
8427969	F-7C-079866	4244330319		103		MCKAY CREEK "B" #3	MCKAY CREEK (CABALLOS	7.0	EL PASO NATURAL G
8428078	F-7B-080190	4243300000		108		MCMILLAN CANYON SAND UNIT #15	GUEST	13.0	CITIES SERVICE OI
8427967	F-08-079864	4200333702		103		NELLIE C MARTIN #15	MARTIN (TUBB)	64.0	PHILLIPS PETROLEU
8427910	F-7B-079692	4213300000		108		NORTHWEST RANGER UNIT #38-1	EASTLAND COUNTY REGUL	1.0	
8427911	F-10-079699	4213332431		103		RANGER (MCCLESKY SAND) FIELD UT #55	RANGER	1.0	SUN GAS TRANSMISS
8428090	F-7B-080211	4215100000		108		S C FERGUSON #2	TOLAR	0.0	DAMSON GAS PROCES
8428081	F-08-080194	4249500000		108		SEALY SMITH FDN -A- #2	HALLEY	6.0	WARREN PETROLEUM
8428027	F-08-079982	4246132094		103		SOUTHWEST MCELROY UNIT #52	MCELROY	5.0	PHILLIPS PETROLEU
8428025	F-7C-079980	4238300000		108		UNIVERSITY -28- #4	SPRABERRY (TREND AREA	0.4	DORCHESTER GAS PR
8428077	F-08-080185	4233500000		108		V T MCCABE -A- #13	JAMESON NORTH	5.0	LONE STAR GAS CO
8428088	F-03-080209	4207100000		108		WHITE ESTATE -A- #8	WILLOW SLOUGH	20.0	UNITED TEXAS TRAN
-TAHOE OIL & CATTLE CO				RECEIVED:	04/06/84	JA: TX			
8427887	F-08-079502	4231732697		103		TAHOE-HYATT REGIENCY #1	SPRABERRY (TREND AREA	116.8	PHILLIPS PETROLEU
-TAMARACK PETROLEUM CO INC				RECEIVED:	04/06/84	JA: TX			
8427918	F-7C-079733	4238331174		103		HALFF "41" #1 (RRC #07364)	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
8427919	F-7C-079734	4246131237		103		HALFF "41" #2 (RRC #07364)	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
-TAUBERT & STEED				RECEIVED:	04/06/84	JA: TX			
8427872	F-06-079238	4249931133		102-4		PENIX #1 - C	NEUHOFF (WOODBINE)	201.0	UNITED GAS PIPELI
-TERRELAND CORP				RECEIVED:	04/06/84	JA: TX			
8427914	F-10-079717	4234131096		103		FAYE #1	PANHANDLE MOORE COUNT	150.0	DIAMOND SHAMROCK
-TEXACO INC				RECEIVED:	04/06/84	JA: TX			
8427928	F-08-079754	4213500000		108		ECTOR "A" FEE #3	DOUBLE H (GRAYBURG)	1.0	PHILLIPS PETROLEU
8428062	F-7C-080064	4246132053		103		J D CHRISTY #2	BLUE DANUBE (STRAWN)	297.8	
8428050	F-8A-080020	4203300000		108		JO MILL UNIT #1442	JO MILL (SPRABERRY)	1.7	GETTY OIL CO
8428049	F-8A-080019	4203300000		108		JO MILL UNIT #2434	JO MILL (SPRABERRY)	0.2	GETTY OIL CO
8428048	F-8A-080018	4203300000		108		JO MILL UNIT #2514	JO MILL (SPRABERRY)	0.7	GETTY OIL CO
8428054	F-8A-080024	4203300000		108		JO MILL UNIT #2542	JO MILL (SPRABERRY)	2.2	GETTY OIL CO
8428051	F-8A-080021	4203300000		108		JO MILL UNIT #3433	JO MILL (SPRABERRY)	2.8	GETTY OIL CO
8428052	F-8A-08002	4203300000		108		JO MILL UNIT #4424	JO MILL (SPRABERRY)	5.9	GETTY OIL CO
8428053	F-8A-080023	4203300000		108		JO MILL UNIT #5224	JO MILL (SPRABERRY)	1.8	GETTY OIL CO
8428047	F-8A-080017	4203300000		108		JO MILL UNIT #9132	JO MILL (SPRABERRY)	0.9	GETTY OIL CO
8427829	F-08-078724	4243131422		103		R E GLASS #6	CONGER (PENN)	155.5	REATA INDUSTRIAL
8428069	F-08-080132	4238931426		102-4		REEVES "BV" FEE #1	JESS BURNER	2.9	
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	04/06/84	JA: TX			
8427871	F-02-079230	4229732637		102-2		BAKER #1 108582	E B BAKER (SLICK B)	438.0	EL PASO NATURAL G
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	04/06/84	JA: TX			
8427873	F-7C-079246	4210534684		103	107-TF	HAGELSTEIN #5	OZONA (CANYOH SAND)	240.0	SHELL OIL CO
-THOMSON-MONTEITH				RECEIVED:	04/06/84	JA: TX			
8427880	F-08-079350	4232931230		103		WINDHAM 36 #1	PARKS (SPRABERRY)	20.7	MOBIL PROD TEXAS
-TOM L INGRAM				RECEIVED:	04/06/84	JA: TX			
8428004	F-08-079926	4200333907		103		THORNBERRY "F" #1	FUHRMAN-MASCHO	12.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8427898	F-08-079649	4200333908		103		THORNBERRY "F" #3	FUHRMAN-MASCHO	14.0	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	04/06/84	JA: TX			
8427857	F-7C-078990	4223500000		103		LINDLEY "40" #15	LUCKY MAG (CLEARFORK	12.0	NORTHERN NATURAL
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/06/84	JA: TX			
8427934	F-08-079781	4200333675		103		DOLLARHIDE UNIT #15-21C	DOLLARHIDE (CLEAR FOR	10.0	DOLLARHIDE GASOLI
8427888	F-08-079504	4200333674		103		DOLLARHIDE UNIT #26-20-C	DOLLARHIDE (CLEAR FOR	50.0	DOLLARHIDE GASOLI
8427891	F-8A-079525	4218930349		103		PRESTON #2	ANTON-IRISH	2.0	
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	04/06/84	JA: TX			
8428021	F-10-079972	4229531132		102-4		WATERS #1-T	HORSECREEK N E (CLEVE	27.0	DIAMOND CHEMICALS
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427884	F-10-079403	4229530994		103		BONK #1	LIPSCOMB S W	24.1	PHILLIPS PETROLEU
-V-F PETROLEUM INC				RECEIVED:	04/06/84	JA: TX			
8427929	F-8A-079760	4207931710		103		HARRIS #1	BONANZA (SAN ANDRES)	2.9	WARREN PETROLEUM
-VERNON E FAULCONER INC				RECEIVED:	04/06/84	JA: TX			
8427930	F-06-079768	4220300000		108		PAT ADAMS #1 SERIAL #029457	BETHANY (PETTIT)	0.0	UNITED GAS PIPELI
-WAGNER & BROWN				RECEIVED:	04/06/84	JA: TX			
8427881	F-08-079356	4243131357		103		GLASS "D" #8-25	CONGER (PENN) FIELD	92.4	TEXAS UTILITIES F
8427952	F-08-079825	4243131391		103		GLASS "G" #7-14	CONGER (PENN)	416.1	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	04/06/84	JA: TX			
8428044	F-08-080012	4210333158		103		M B MCKNIGHT #150	L SAND HILLS (MCKNIGH	40.8	EL PASO NATURAL G
8427902	F-08-079657	4210333322		103		P J LEA (TR B) #168	LEA (SAN ANDRES)	13.0	EL PASO NATURAL G
8427901	F-08-079656	4210333334		103		P J LEA (TRB) #175	LEA (SAN ANDRES)	19.5	EL PASO NATURAL G
8427903	F-08-079659	4210333324		103		P J LEA #155	LEA (SAN ANDRES)	14.3	EL PASO NATURAL G
8428041	F-08-080009	4210333333		103		P J LEA ETAL (TRA) #149	LEA (SAN ANDRES)	9.3	EL PASO NATURAL G
8428042	F-08-080010	4210333331		103		P J LEA ETAL (TRA) #160	LEA (SAN ANDRES)	10.0	EL PASO NATURAL G
8428043	F-08-080011	4210333342		103		P J LEA ETAL (TRA) #184	LEA (SAN ANDRES)	22.3	EL PASO NATURAL G
8427900	F-08-079654	4210333254		103		W N WADDELL (TR A) #1264	SAND HILLS (MCKNIGHT)	371.4	EL PASO NATURAL G
8428045	F-08-080013	4210333262		103		W N WADDELL ETAL (TRA) #1265	SAND HILLS (MCKNIGHT)	7.4	EL PASO NATURAL G
8428046	F-08-080014	4210333261		103		W N WADDELL ETAL (TRA) #1274	SAND HILLS (MCKNIGHT)	2.6	EL PASO NATURAL G
-WESSELY ENERGY CORPORATION				RECEIVED:	04/06/84	JA: TX			
8427962	F-7B-079819	4225332665		103		W L MITCHELL #3 16936	NOODLE S (CANYON REEF	30.0	TEXAS UTILITIES F
-WEST TULETA OPERATING CORP				RECEIVED:	04/06/84	JA: TX			
8427867	F-02-079161	4202500000		103		RAPP #1	TULETA WEST (VICKSBUR	182.0	HPI TRANSMISSION
-WILHAM INVESTMENTS INC				RECEIVED:	04/06/84	JA: TX			
8428071	F-10-080135	4206531631		103		MOBIL FEE (61) (05025) #2	PANHANDLE CARSON COUN	100.0	GETTY OIL CO
-WINCHESTER OIL CO				RECEIVED:	04/06/84	JA: TX			
8427931	F-06-079774	4220331017		103		JONESVILLE #4	WASKOM (TRAVIS PEAK 4	0.0	TEXAS EASTERN TRA
8427932	F-06-079775	4220331025		103		KNIGHTON #2	WASKOM (TRAVIS PEAK L	0.0	TEXAS EASTERN TRA
-WISE WELL SERVICE				RECEIVED:	04/06/84	JA: TX			
8427917	F-09-079724	4223735598		102-4		SHOUN #2	SPEARS (CONGL)	0.0	LONE STAR GAS CO
-WY-VEL CORP				RECEIVED:	04/06/84	JA: TX			
8427942	F-10-079795	4217931440		103		AEBERSOLD (04904) #10	PANHANDLE	7.9	CABOT CORP
8428036	F-10-080000	4206531487		103		HORN (05381) #2	PANHANDLE	106.9	KERR-MCGEE CORP

[FR Doc. 84-11747 Filed 4-30-84; 8:45 am]

BILLING CODE 6717-01-C

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NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 25, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83–50–000, 49 FR 7109–13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, D.C. 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New res. on old OCS lease
Section 103: New onshore production well
Section 107–DP: 15,000 ft or deeper
107–GB: Geopressured brine
107–DV: Devonian shale
107–CS: Coal seam gas
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1114
ISSUED APRIL 25, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-BLACK WARRIOR METHANE CORP				RECEIVED:	04/05/84	JA: AL			
8428139	2-23-848PD	0112520148		107-CS		SHOOK 1-1-3	BROOKWOOD COAL DEGASI	180.0	SOUTHERN NATURAL
8428141	3-29-841PD	0112520164		107-CS		SHOOK 35-16-8	BROOKWOOD COAL DEGASI	180.0	SOUTHERN NATURAL
-BROWNING & WELCH INC				RECEIVED:	04/05/84	JA: AL			
8428140	2-23-8410PD	0107520523		103		W A DELANEY 8-7 #1	EAST DETROIT	265.0	
-GETTY OIL COMPANY				RECEIVED:	04/05/84	JA: AL			
8428137	12-2-832PD	0109720226		107-DP		D C BALDWIN 21-15 #1	HATTER'S POND FIELD	0.0	UNITED GAS PIPELI
-HUGHES EASTERN PETROLEUM LTD				RECEIVED:	04/05/84	JA: AL			
8428143	3-29-846PD	0107520532		102-4		NBC UNIT 34-10 #1	NORTH BLOWHORN CREEK	0.0	
-SUPERIOR OIL CO				RECEIVED:	04/05/84	JA: AL			
8428142	3-29-844PD	0129720227		107-DP		ANNIE M HILL UNIT 9 #1	MOVICO	169.0	
-TEXACO INC				RECEIVED:	04/05/84	JA: AL			
8428138	1-19-841PDA	0105320175		102-4		ATIC 35-6 #2	HUXFORD	340.0	CONECUH-MONROE CO
MONTANA BOARD OF OIL & GAS CONSERVATION									
-S & J OPERATING CO				RECEIVED:	04/06/84	JA: MT			
8428148	7-83-96	2507121159		108		ROGER SIMONSON 1-28 2852	EAST LORING (BOWDOIN)	3.8	KN ENERGY INC
8428149	7-83-95	2510521085		108		WALTER E WOODS #1 3514	BOWDOIN	4.6	KN ENERGY INC
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AMERICAN PETROEL INC				RECEIVED:	04/05/84	JA: OH			
8428178		3416723656		103		VICKERS #3	BARLOW	10.0	
8428179		3416723863		103		VICKERS #4	BARLOW	10.0	
-BAKERWELL INC				RECEIVED:	04/05/84	JA: OH			
8428180		3407524254		103		TIDBALL #3	HARDY	10.0	COLUMBIA GAS TRAN
-BELL DRILLING & PRODUCING CO				RECEIVED:	04/05/84	JA: OH			
8428184		3407322127		108		GRUMMAR #3		5.8	COLUMBIA GAS TRAN
8428186		3407322215		108		GRUMMAR #4		4.1	COLUMBIA GAS TRAN
8428187		3407322216		108		GRUMMAR #5		5.8	COLUMBIA GAS TRAN
8428188		3407322235		108		GRUMMAR #6		4.1	COLUMBIA GAS TRAN
8428189		3407322465		108		HELM COAL #10		7.4	COLUMBIA GAS TRAN
8428190		3407322466		108		HELM COAL #11		7.4	COLUMBIA GAS TRAN
8428191		3407322570		108		HELM COAL #12		4.7	COLUMBIA GAS TRAN
8428192		3407322571		108		HELM COAL #13		6.4	COLUMBIA GAS TRAN
8428181		3407322089		108		HELM COAL #6		1.5	COLUMBIA GAS TRAN
8428182		3407322113		108		HELM COAL #7		1.5	COLUMBIA GAS TRAN
8428183		3407322126		108		HELM COAL #8		1.5	COLUMBIA GAS TRAN
8428185		3407322131		108		HELM COAL #9		1.5	COLUMBIA GAS TRAN
-BERRESFORD ENTERPRISES INC				RECEIVED:	04/05/84	JA: OH			
8428193		3411523181		107-TF		CECIL DIEST #1	CENTER	0.0	
8428194		3411523222		107-TF		ETHEL WELCH #1	CENTER	0.0	
-BIG INJUN OIL & GAS CO INC				RECEIVED:	04/05/84	JA: OH			
8428195		3408924837		103		JOHN HOOVER #2	PERRY	4.0	NATIONAL GAS & OI
-CARLTON OIL CORP				RECEIVED:	04/05/84	JA: OH			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8428196		3416727615		107-DV		MORGENSTERN #1	GRANDVIEW	50.0	RIVER GAS CO
-CHRISTMAN OIL CO				RECEIVED:	04/05/84	JA: OH			
8428197		3411122999		103		CLAYTON CHRISTMAN #3	CENTER	0.0	RIVER GAS CO
-CLINTON OIL CO				RECEIVED:	04/05/84	JA: OH			
8428288		3405520696		107-TF		N KOTHERA UNIT #1-855	HUNTSBURG	10.0	
8428289		3413323191		107-TF		RALPH DAVIS UNIT #1-570	BRIMFIELD	10.0	
-CONCORD ENERGY INC				RECEIVED:	04/05/84	JA: OH			
8428198		3411926598		107-TF		S BARR #1	BLOOMFIELD	6.6	EAST OHIO GAS CO
-DENNIS DUGAN				RECEIVED:	04/05/84	JA: OH			
8428199		3403125270		103		B N WALKER ETAL	JEFFERSON	0.0	
-DERBY OIL & GAS CORP				RECEIVED:	04/05/84	JA: OH			
8428200		3416923722		103	107-TF	RICHARD GRAHAM #6	WAYNE	12.0	R S C ENERGY CORP
-DORSEY OIL & GAS INC				RECEIVED:	04/05/84	JA: OH			
8428201		3408924874		103		JOHN NEIBARGER #1	MADISON	6.0	NATIONAL GAS & OI
-ENTERPRISE ENERGY CORP				RECEIVED:	04/05/84	JA: OH			
8428203		3411523274		103	107-TF	RAY #2	BRISTOL	18.2	
-FLOYD E THOMPSON OIL CO INC				RECEIVED:	04/05/84	JA: OH			
8428227		3412724398	D	108		JAMES WILSON #1	SOMERSET-EAST	4.0	NATIONAL GAS & OI
-FORAKER PRODUCING COMPANY INC				RECEIVED:	04/05/84	JA: OH			
8428228		3412724646		103		HITE HEIRS #1	PIKE	15.0	TEXAS EASTERN TRA
-GERALD WEISS DRILLING CO				RECEIVED:	04/05/84	JA: OH			
8428229		3411122153		107-DV		DONALD MILLER #1	MALAGA	18.0	RIVER GAS CO
-GREENLAND PETROLEUM CO				RECEIVED:	04/05/84	JA: OH			
8428230		3412726019		103		JONES COAL #6	COAL	15.0	FORACKER GAS CO I
8428231		3412726143		103		MASTERSON/JONES #3	PIKE	15.0	FORACKER GAS CO I
8428232		3412726144		103		MASTERSON/JONES #6	PIKE	15.0	FORACKER GAS CO I
8428233		3412726161		103		NUTTER #11	MONDAY CREEK	15.0	FORACKER GAS CO I
8428234		3412726167		103		NUTTER #8	MONDAY CREEK	15.0	FORACKER GAS CO I
-HICKMAN RICHARD W				RECEIVED:	04/05/84	JA: OH			
8428271		3408924847		103		HICKMAN #2	FALLSBURY	1.8	NATIONAL GAS & OI
8428270		3408924815		103		HICKMAN #5B	FALLSBURY	0.8	NATIONAL GAS & OI
-JADOIL INC				RECEIVED:	04/05/84	JA: OH			
8428235		3408323283		103		EVALINE & GEORGE HARRIS #1-D	JACKSON	0.0	COLUMBIA GAS TRAN
8428237		3408924643		103		GERALDINE SUTTON #2	HANOVER	6.0	NEWZANE GAS CO
8428238		3408924644		103		LEONARD D & EDITH D KNUCHEL #4	HOPEWELL	3.0	NEWZANE GAS CO
8428236		3408323297		103		WILLIAM J & MARY E COAKLEY #4	JACKSON	12.0	COLUMBIA GAS TRAN
-JAMES DRILLING CORP				RECEIVED:	04/05/84	JA: OH			
8428239		3400720789		103	108	WILBUR J HALL #1	PIERPONT	1.0	JONES & LAUGHLIN
-KING PETROLEUM				RECEIVED:	04/05/84	JA: OH			
8428240		3411926951		103		RIGGLE ACRES #1	LICKING	3.0	NATIONAL GAS & OI
-L & M EXPLORATION INC				RECEIVED:	04/05/84	JA: OH			
8428241		3401921048		108		KORNS #2		10.0	BONANZA GAS LINE
8428245		3401921153		108		KORNS #4		10.0	BONANZA GAS LINE
8428244		3401921152		108		WOOD #1		10.0	BONANZA GAS LINE
8428243		3401921151		108		WOOD #2		10.0	BONANZA GAS LINE
-L & M OPERATING INC				RECEIVED:	04/05/84	JA: OH			
8428248		3416725741		108		NOLAND/MCCAIN #3		10.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	04/05/84	JA: OH			
8428246		3401921294		108		ARTHUR LEWIS #3		10.0	BONANZA GAS LINE
8428242		3412726128		103		MELVIN BAKER #1	JACKSON	10.0	NATIONAL GAS & OI
8428247		3412726135		103		PETER THOMPSON #1	JACKSON	10.0	NATIONAL GAS & OI
-LAKE REGION OIL INC				RECEIVED:	04/05/84	JA: OH			
8428249		3415723971		103	107-TF	G & M ZIMMERMAN #1	FRANKLIN	15.0	YANKEE RESOURCES
-LANDPROVEST INC				RECEIVED:	04/05/84	JA: OH			
8428250		3405923559		107-TF		BARSTOW #2-83	BLOOMFIELD	35.0	
8428251		3411926730		107-TF		M JOHNSON-HALL #1	MEIGS	50.0	
-LEADER EQUITIES INC				RECEIVED:	04/05/84	JA: OH			
8428252		3411926852		103	107-TF	LONGSTRETH #1	CASS	12.0	
8428253		3411926914		103	107-TF	RODNEY COHAGEN #1	CASS	14.0	
8428254		3411926939		103	107-TF	W CASTOR #2	MONROE	12.0	
-LIBERTY OIL&GAS CORP				RECEIVED:	04/05/84	JA: OH			
8428255		3410521822		107-TF		CLYDE KUHN #1	OLIVE	18.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	04/05/84	JA: OH			
8428256		3411523160		103	107-TF	D ROBERTS ETAL #1	CENTER	18.0	
8428259		3415522402		103	107-TF	R MURRY #1	MESOPOTAMIA	18.0	
8428257		3411926272		103	107-TF	RODGERS & ROSEN #13-L	BLUE ROCK	18.0	
8428258		3411926276		103	107-TF	RODGERS & ROSEN #17-L	BLUE ROCK	18.0	
-ORION ENERGY CORP				RECEIVED:	04/05/84	JA: OH			
8428260		3413323158		107-TF		KLINGENSMITH UNIT #1	ATWATER	10.0	EAST OHIO GAS CO
-OXFORD OIL CO				RECEIVED:	04/05/84	JA: OH			
8428290		3412726189		103		HARRY WALSER #5	THORN	8.0	
8428291		3412726190		103		HARRY WALSER #6	THORN	8.0	
8428292		3412726191		103		HARRY WALSER #7	THORN	8.0	
-PETRO EAGLE CO				RECEIVED:	04/05/84	JA: OH			
8428261		3416737675		103		JUR DRIVE-IN CO #1	WARREN TWP	8.0	RIVER GAS CO
-PETRO EVALUATION SERVICES INC				RECEIVED:	04/05/84	JA: OH			
8428262		3408520525		103	107-TF	METRO PARK #1	PERRY	35.0	
-PETROCON INC				RECEIVED:	04/05/84	JA: OH			
8428263		3415123901		103		DIMMERLING "A" WELL #3	OSNABURG	6.0	
-PETROLEUM SEC FD-1977				RECEIVED:	04/05/84	JA: OH			
8428264		3416922057		108		LESTER W GEISER #2	SMITHVILLE	0.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	04/05/84	JA: OH			
8428266		3400722589		103	107-TF	C WAID #RM-1	NEW LYME	33.0	EAST OHIO GAS CO
8428267		3405520657		103	107-TF	D TESTA #RM-3	AUBURN	35.0	
8428265		3400722582		103	107-TF	P JOHNSON #RM-1	ROME	25.0	
-QUALITY OIL & GAS CORP				RECEIVED:	04/05/84	JA: OH			
8428269		3402920992		107-TF		LEE RAMSAYER #1	KNOX	0.0	EAST OHIO GAS CO
8428268		3402920991		107-TF		MILDRED MCQUILKEN #2	KNOX	0.0	EAST OHIO GAS CO
-RED HILL DEVELOPMENT				RECEIVED:	04/05/84	JA: OH			
8428218		3406720616		103	107-TF	B HERSHMAN #1	FREEPORT	14.0	
8428219		3406720617		103	107-TF	B HERSHMAN #2	FREEPORT	9.0	
8428214		3406720605		103	107-TF	C HALL #1	FREEPORT	4.0	
8428207		3405923488		103	107-TF	D BECKETT #1	WASHINGTON	4.0	
8428206		3405923487		103	107-TF	D CAMERON #1	WASHINGTON	5.0	
8428213		3406720604		103	107-TF	D SAYRE #2	FREEPORT	15.0	
8428205		3405923478		103	107-TF	D STINE #1	LONDONDERRY	10.0	
8428217		3406720609		103	107-TF	E HREN #1	WASHINGTON	31.0	
8428224		3415723847		103	107-TF	E YOUNGEN #3	BUCKS	19.0	
8428221		3406720627		103	107-TF	G CLONTZ #1	FREEPORT	5.0	
8428216		3406720607		103	107-TF	G STINE #1	FREEPORT	8.0	
8428215		3406720606		103	107-TF	J STEWART #2	FREEPORT	11.0	
8428211		3406720541		103	107-TF	J THOMPSON #1	WASHINGTON	5.0	
8428210		3406720540		103	107-TF	J WORLEY #1	STOCK	4.0	
8428204		3405923463		103	107-TF	L HUFF #1	LONDONDERRY	5.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8428225		3415723891		103	107-TF	M HOUSTON #1	BUCKS	45.0	
8428222		3415723755		103	107-TF	P SULLIVAN #1	PERRY	12.0	
8428220		3406720620		103	107-TF	R FLEAGANE #1	CADIZ	4.0	
8428209		3405923494		103	107-TF	R LAROCHE #1	WASHINGTON	4.0	
8428212		3406720575		103	107-TF	R VANSICKLE #1	FRANKLIN	14.0	
8428223		3415723823		103	107-TF	STRASBURG INDUSTRIAL #1	FRANKLIN	31.0	
8428226		3415723896		103	107-TF	T STEEL #1	BUCKS	13.0	
8428208		3405923490		103	107-TF	V CUNNINGHAM #1	WASHINGTON	4.0	
-RELIANCE ENERGY				RECEIVED:	04/05/84	JA: OH			
8428202		3412726140		103		ROY REAM #2	READING	0.0	NATIONAL GAS & OI
-RSC ENERGY CORP				RECEIVED:	04/05/84	JA: OH			
8428274		3411926797		103	107-TF	CONSOLIDATION COAL - CR #79	MADISON	9.0	REPUBLIC STEEL CO
8428272		3411926780		103	107-TF	CONSOLIDATION COAL - CR #84	ADAMS	11.7	REPUBLIC STEEL CO
8428273		3411926789		103	107-TF	CONSOLIDATION COAL - CR #86	MADISON	10.9	REPUBLIC STEEL CO
-SANTA FE DRILLING CO INC				RECEIVED:	04/05/84	JA: OH			
8428280		3416724027	D	107-RT		GLENN & HELEN FULTON #1	SALEM	50.0	COLUMBIA GAS TRAN
8428279		3416724022	D	107-RT		HAROLD & DORA WEPPLER	FEARING	50.0	COLUMBIA GAS TRAN
8428276		3416723973		107-RT		HOMER & WYONA ANDERSON #2	SALEM	50.0	COLUMBIA GAS TRAN
8428283		3416724033	D	107-RT		HOMER & WYONA ANDERSON #2	SALEM	50.0	COLUMBIA GAS TRAN
8428277		3416723987	D	107-RT		HOMER ANDERSON #1	SALEM	50.0	COLUMBIA GAS TRAN
8428278		3416724016	D	107-TF		JOHN & LOUELLA BETTS #3	FEARING	50.0	COLUMBIA GAS TRAN
8428281		3416724028	D	107-RT		LESLIE & MARY FULTON #2	SALEM	50.0	COLUMBIA GAS TRAN
8428282		3416724029	D	107-RT		LESLIE AND MARY FULTON #1	SALEM	50.0	COLUMBIA GAS TRAN
8428275		3416723954		107-RT		LESTER & ANNA PIATT #1	SALEM	50.0	COLUMBIA GAS TRAN
8428284		3416724339	D	107-RT		ROBERT & REBECCA STILLE #2	SALEM	50.0	COLUMBIA GAS TRAN
-STOCKER & SITLER INC				RECEIVED:	04/05/84	JA: OH			
8428285		3411926843		103	107-TF	CONSOL LEASE #1	SPRINGFIELD	77.0	NATIONAL GAS & OI
-SWINGLE DRILLING INC				RECEIVED:	04/05/84	JA: OH			
8428286		3400922940		103		SUNDAY CREEK COAL CO #6	SOUTH CORNING OIL POO	2.0	
8428287		3400922940		103		SUNDAY CREEK COAL CO #7	SOUTH CORNING OIL POO	2.0	
-TORENT OIL & GAS CO				RECEIVED:	04/05/84	JA: OH			
8428296		3416923668		107-TF		HOOVER #1	MILTON	10.0	COLUMBIA GAS TRAN
8428295		3416923558		107-TF		MASSIE #1	WAYNE	8.0	EAST OHIO GAS CO
8428293		3409921643		107-TF		OBERLE UNIT #1	JACKSON	30.0	EAST OHIO GAS CO
8428294		3409921644		107-TF		OBERLE UNIT #2	JACKSON	30.0	EAST OHIO GAS CO
-VALENTINE OIL PROPERTIES				RECEIVED:	04/05/84	JA: OH			
8428298		3416727585		103		STALNAKER #1	GRANDVIEW	25.0	
8428297		3416727553		103		STALNAKER #2	GRANDVIEW	35.0	
-VICTOR MCKENZIE DRILLING CO INC				RECEIVED:	04/05/84	JA: OH			
8428299		3411926912		103	107-TF	RUSK UNIT #1	PERRY	75.0	COLUMBIA GAS TRAN
-W E SHRIDER CO				RECEIVED:	04/05/84	JA: OH			
8428301		3412743173		103		BOPE - HENDRY #2	COAL	3.0	M & B INDUSTRIAL
8428300		3412735963		103		DAINE MAXWELL #1	MONROE	3.0	M & B INDUSTRIAL
-WILLIAM F HILL				RECEIVED:	04/05/84	JA: OH			
8428302		3407524232		103		RUTH E RUPERT	MONROE	7.0	COLUMBIA GAS TRAN
-WITCO CHEMICAL CORP				RECEIVED:	04/05/84	JA: OH			
8428303		3412726182		103		HOCKING VALLEY PRODUCTS #2046	MONDAY CREEK	7.3	
-WM OIL & GAS INC				RECEIVED:	04/05/84	JA: OH			
8428304		3415123606		108		WETTER #1	EAST SPARTA	0.0	EAST OHIO GAS CO

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WYOMING OIL & GAS CONSERVATION COMMISSION

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-AMERICAN NAT GAS PROD CO				RECEIVED:	04/05/84	JA: WY			
8428115	NG78-83	4900720655		102-2		CRESTON #14-25	CRESTON NOSE	35.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	04/05/84	JA: WY			
8428126	NG19-84	4900527083		102-2		CEDAR DRAW #1	WILDCAT - MUDDY	438.0	PHILLIPS PETROLEU
8428133	NG26-84	4900527185		102-2		CEDAR DRAW #2	MUDDY - WILDCAT	438.0	PHILLIPS PETROLEU
8428117	NG20-83	4904120354		103		CHAMPLIN 186 AMOCO "H" #1 (DAKOTA)	VERNE - DAKOTA	213.0	NORTHWEST CENTRAL
8428116	NG23-83	4904120354		107-TF		CHAMPLIN 186 AMOCO "H" #1 FRONTIER	VERNE - 2ND FRONTIER	38.0	NORTHWEST CENTRAL
8428120	NG42-83	4904120481		102-2		CHAMPLIN 363 AMOCO "B" #1 (NUGGET)	WILDCAT-NUGGET	1642.0	
-APACHE CORPORATION				RECEIVED:	04/05/84	JA: WY			
8428122	NG90-83	4900526880		102-2		MOORE #19-15	WILDCAT	456.0	PHILLIPS PETROLEU
-BELCO PETROLEUM CORPORATION				RECEIVED:	04/05/84	JA: WY			
8428121	NG33-83	4903520696		102-4		C79-23	C-47	0.0	NORTHWEST PIPELIN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/05/84	JA: WY			
8428119	NG13-83	4900720547		107-TF		CHAMPLIN 1-9 UPRR	JOHNSON SPRINGS	128.0	
8428123	NG35-83	4903712108		103		MONELL UNIT #8R	PATRICK DRAW	21.5	COLORADO INTERSTA
8428127	NG20-84	4900922328		102-2		MORTON'S 12-19 #5	SCOTT	15.3	
-CHINOOK RESOURCES INC				RECEIVED:	04/05/84	JA: WY			
8428129	NG22-84	4900922291		102-4		DELRENE 32-4	SCOTT FIELD	11.0	CHINOOK CONSTRUCT
8428128	NG21-84	4900922290		102-4		LOGAN B 34-4	SCOTT FIELD	14.6	CHINOOK CONSTRUCT
-DAVIS OIL COMPANY				RECEIVED:	04/05/84	JA: WY			
8428125	NG18-84	4900527225		102-2		FELIX UNIT #7-A	WILDCAT	214.0	BIG HORN FRACTION
-DIAMOND SHAMROCK EXPLORATION CO				RECEIVED:	04/05/84	JA: WY			
8428134	NG27-84	4903520763		102-2		SPLIT RIVER FEE 24-35	BIRD CANYON	0.0	
-ENERGETICS INC				RECEIVED:	04/05/84	JA: WY			
8428130	NG23-84	4901321326		107-DP		BUCY STATE 21-16	MATADOR UNIT	603.0	NORTHWEST PIPELIN
8428131	NG23-84A	4901321326		102-3		BUCY STATE 21-16	MATADOR UNIT	603.0	NORTHWEST PIPELIN
-INTEGRATED ENERGY INC				RECEIVED:	04/05/84	JA: WY			
8428113	NG180-83	4900922311		103		MORTON 2-20	SCOTT	0.0	CHINOOK PIPELINE
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	04/05/84	JA: WY			
8428132	NG24-84	4902721965		102-2		BALD EAGLE FEDERAL #1-25	WILDCAT	166.0	NORTHWEST CENTRAL
-SOUTHLAND ROYALTY CO				RECEIVED:	04/05/84	JA: WY			
8428136	NG29-84	4900720923		103		WEST SIDE CANAL UNIT #15	WEST SIDE CANAL	125.0	MOUNTAIN FUEL SUP
8428135	NG28-84	4900720924		103		WEST SIDE CANAL UNIT #16	WEST SIDE CANAL	400.0	MOUNTAIN FUEL SUP
-WEXPRO COMPANY				RECEIVED:	04/05/84	JA: WY			
8428118	NG75-83	4903722047		103		CHURCH BUTTES UNIT WELL #35	CHURCH BUTTES	720.0	MOUNTAIN FUEL SUP
8428114	NG-24-83	4904120543		103	107-TF	CHURCH BUTTES UNIT WELL #36	CHURCH BUTTES	1200.0	MOUNTAIN FUEL SUP
-WOLD OIL & GAS CO				RECEIVED:	04/05/84	JA: WY			
8428124	NG89-83	4900720870		102-4		WOLD-UPRR #12-7	SEPARATION FLATS	36.5	NORTHERN GAS CO

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** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM

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-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/06/84	JA: NM L			
8428163	RNM0221-83	3004100000		108		FARRELL-FEDERAL #2	CHAVEROO (SAN ANDRES)	0.0	CITIES SERVICE OI
8428151	RNM0285-83	3004100000		108		LAUCK-FEDERAL #11	CHAVEROO-SAN ANDRES	1.8	CITIES SERVICE OI
8428164	RNM0220-83	3004100000		108		LAUCK-FEDERAL #7	CHAVEROO (SAN ANDRES)	0.3	CITIES SERVICE OI
-CONOCO INC				RECEIVED:	04/06/84	JA: NM L			
8428160	RNM0130-84	3002506476		108		LOCKHART B-11 #4	NMFU - BLINEBRY/DRINK	12.1	GETTY OIL CO
8428161	RNM0057-84	3002509808		108		SHOLES B-25 #2	NMFU - JALMAT	1.6	EL PASO NATURAL G
8428158	RNM0019-83	3002510731		108-PB		STEVENS B-15 #2	NMFU - JALMAT	19.2	EL PASO NATURAL G
8428176	RNM002883PB	3002510731		108-PB		STEVENS B-15 #2	NMFU-JALMAT	19.2	EL PASO NATURAL G
-DAVID FASKEN				RECEIVED:	04/06/84	JA: NM L			
8428150	RNM0061-84	3001510502		108		FASKEN-ROSS FEDERAL COM #1	CEMETERY - MORROW	0.5	NATURAL GAS PIPEL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/06/84	JA: NM L			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8428167	RNM0020-83	3002500000		108-PB		CAGLE B #2	RHODES	0.0	EL PASO NATURAL G
8428168	RNM003083PB	3002500000		108-PB		CAGLE B #2	RHODES	0.0	EL PASO NATURAL G
8428169	RMN003283PB	3002500000		108-PB		CAGLE B #2	RHODES	0.0	EL PASO NATURAL G
8428170	RNM002383PB	3002511458		108-PB		E J WELLS #13	JALMAT	0.0	EL PASO NATURAL G
8428172	RNM003183PB	3002511458		108-PB		E J WELLS #13	JALMAT	0.0	EL PASO NATURAL G
8428175	RNM002483PB	3002524554		108-PB		RHODES STORAGE UNIT #7	RHODES	0.0	EL PASO NATURAL G
8428171	RNM002983PB	3002524554		108-PB		RHODES STORAGE UNIT #7 WDRL	RHODES	0.0	EL PASO NATURAL G
8428173	RNM001683PB	3001521049		108-PB		ROCKY ARROYO E #1	ROCKY ARROYO	0.0	EL PASO NATURAL G
-HNG OIL COMPANY				RECEIVED:	04/05/84	JA: NM L			
8428145	RNM0072-84	3002528288		102-2		VACA "13" FEDERAL #1	WILDCAT MORROW	0.0	
-J C WILLIAMSON				RECEIVED:	04/06/84	JA: NM L			
8428154	RNM0346-83	3001524249		102-4		EP-USA #3	BRUSHY DRAW	27.3	CONOCO INC
8428153	RNM0067-83	3001524195		102-4	103	HOLLY FEDERAL #1	WILDCAT	7.3	CONOCO INC
8428159	RNM0068-83	3001524262		102-4	103	MWJ FEDERAL #1	WILDCAT	7.3	CONOCO INC
8428155	RNM0066-83	3001524034		102-4	103	UCBHWW FEDERAL #1	WILDCAT	7.3	CONOCO INC
8428157	RNM0065-83	3001503745		102-4	103	UCBHWW FEDERAL #2	BRUSHY DRAW	7.3	CONOCO INC
8428152	RNM0121-83	3001524451		102-4		UCBHWW FEDERAL #3	BRUSHY DRAW (BRUSHY C	18.2	CONOCO INC
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	04/05/84	JA: NM L			
8428146	RNM0081-84	3000562054		102-2	107-TF	ISLER PENNZOIL FEDERAL #2	PECOS SLOPE ABO	0.0	PECOS RIVER GAS P
-READ & STEVENS INC				RECEIVED:	04/06/84	JA: NM L			
8428162	RNM0229-83	3002523029		108		FEDERAL "A" #1	QUAIL QUEEN (UNDES)	1.0	WARREN PETROLEUM
-SOUTHLAND ROYALTY CO				RECEIVED:	04/06/84	JA: NM L			
8428174	RNM002783PB	3001523241		108-PB		CITGO 5 FED COM #1	N BURTON FLAT STRAWN	0.0	EL PASO NATURAL G
8428177	RNM002583PB	3001523241		108-PB		CITGO 5 FED COM #1	N BURTON FLAT STRAWN	0.0	EL PASO NATURAL G
-SUPERIOR OIL CO				RECEIVED:	04/06/84	JA: NM L			
8428166	RNM0107-83	3002527753		102-2	103	OLSON FEDERAL #1	WILDCAT	0.0	
-YATES DRILLING CO (NM)				RECEIVED:	04/06/84	JA: NM L			
8428156	RNM0121-84	3000520940		103		DAVE FEDERAL #2	UND CAPROCK QUEEN	0.0	
-YATES PETROLEUM CORPORATION				RECEIVED:	04/05/84	JA: NM L			
8428147	RNM0124-84	3000562063		102-2	107-TF	FEDERAL "IX" #2	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8428144	RNM0077-84	3000552067		102-3	107-TF	RUTH "XK" FED #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION				RECEIVED:	04/06/84	JA: NM L			
8428165	RNM0201-83	3000561949		102-2	107-TF	CAROL "VI" FED COM #1	WEST PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE

[FR Doc. 84-11748 Filed 4-30-84; 8:45 am]

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Federal Register

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Tuesday, May 1, 1984

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18453-18720.....1

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 1984

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
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May 3	May 18	June 4	June 18	July 2	August 1
May 4	May 21	June 4	June 18	July 3	August 2
May 7	May 22	June 6	June 21	July 6	August 6
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May 24	June 8	June 25	July 9	July 23	August 22
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May 29	June 13	June 28	July 13	July 30	August 27
May 30	June 14	June 29	July 16	July 30	August 28
May 31	June 15	July 2	July 16	July 30	August 29

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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 List April 25, 1984

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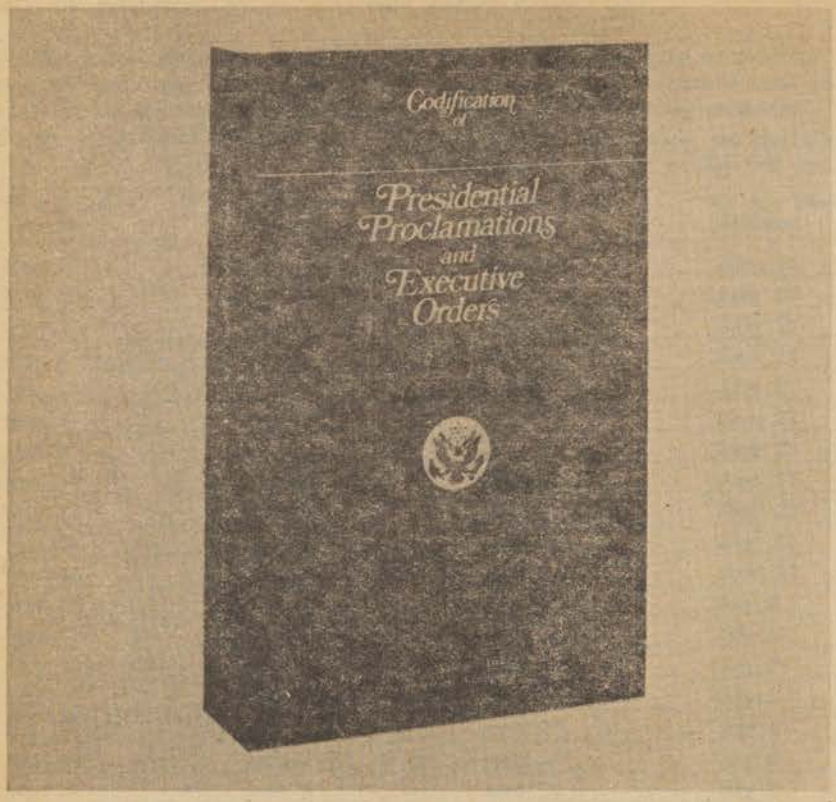

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