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MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1200, 1201, 1203, 1204, 1205, and 1206

Change in Organizational Title

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The former Office of the Secretary, Merit Systems Protection Board, has been redesignated as the Office of the Clerk of the Board, and the head of that office will be titled Clerk of the Board, rather than Secretary. This action is taken in order to more accurately describe the functional responsibilities of this MSPB staff office.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen E. Manrose, Acting Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419, (202) 653-7200.

SUPPLEMENTARY INFORMATION: In the performance of its statutory functions as an independent quasi-judicial agency, the Merit Systems Protection Board deals with legal processes and procedures, case management operations, and litigation activities which are greatly similar and related to adjudicative functions of the Federal courts. Following establishment of the Board on January 1, 1979, by Reorganization Plan No. 2 and the Civil Service Reform Act of 1978, the original organization structure which was adopted by the Board included the Office of the Secretary, responsible for the performance of centralized case control, records maintenance, and information management functions for the Board.

The Board has now determined that the functions performed by this staff office, given the quasi-judicial nature of the adjudicative processes of the Merit Systems Protection Board, are fundamentally similar to like functions which are assigned to Clerk of the Court offices within the Federal Court system. Accordingly, to more accurately reflect the role of this staff office of the Board, the title "Office of the Secretary" is changed to read "Office of the Clerk of the Board" at all points of reference in the Board's regulations.

In its general effect, this means that all correspondence previously designated for mailing to the Secretary now should be addressed to the Clerk of the Board, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

List of Subjects in 5 CFR Parts 1200, 1201, 1203, 1204, 1205 and 1206

Organization and functions, Government agencies.

PART 1200—BOARD ORGANIZATION

§ 1200.10 [Amended]

1. 5 CFR Part 1200 is amended by removing the words "Office of the Secretary" and inserting in their place the words "Office of the Clerk of the Board," at the following place:

(a) § 1200.10(f).

PART 1201—PRACTICES AND PROCEDURES

§§ 1201.111 and 1201.114 [Amended]

2. 5 CFR Part 1201 is amended by removing the word "Secretary" and inserting in its place the word "Clerk" in the following places:

(a) § 1201.111(a); and
(b) § 1201.114(c).

§§ 1201.122, 1201.129, and 1201.181 [Amended]

3. 5 CFR Part 1201 is amended by removing the words "Office of the Secretary" and inserting in their place the words "Office of the Clerk of the Board" in the following places:

(a) § 1201.122(a);
(b) § 1201.129(b); and
(c) § 1201.181(b).

PART 1203—HEARING PROCEDURES FOR ORIGINAL JURISDICTION CASES

§ 1203.18 [Amended]

4. 5 CFR Part 1203 is amended by removing the words "Secretary of the Board" and inserting in their place the words "Clerk of the Board," in the following place:

(a) § 1203.18(a).

PART 1204—FREEDOM OF INFORMATION ACT

§ 1204.11 [Amended]

5. 5 CFR Part 1204 is amended by removing the words "Office of the Secretary" and inserting in their place the words "Office of the Clerk of the Board," in the following place:

(a) § 1204.11(a).

§§ 1204.12 and 1204.13 [Amended]

6. In addition, 5 CFR Part 1204 is amended by removing the words "Secretary of the Board" and inserting in their place the words "Clerk of the Board," in the following places:

(a) § 1204.12(d); and
(b) § 1204.13(b).

PART 1205—PRIVACY ACT

§ 1205.11 [Amended]

7. 5 CFR Part 1205 is amended by removing the words "Office of the Secretary" and inserting in their place the words "Office of the Clerk of the Board," in the following place:

(a) § 1205.11(a).

§§ 1205.12 and 1205.21 [Amended]

8. In addition, 5 CFR Part 1205 is amended by removing the word "Secretary" and inserting in its place the words "Clerk of the Board," in the following places:

(a) § 1205.12(d); and
(b) § 1205.21.

PART 1206—OPEN MEETINGS

§ 1206.8 [Amended]

9. 5 CFR 1206 is amended by removing the words "Office of the Secretary" and inserting in their place the words "Office of the Clerk of the Board," in the following place:

(a) § 1206.8.

(5 U.S.C. 1101 et seq., 1205 (a) (4), (e) (g), 552, 552a, 552b)

Dated: September 4, 1984.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 84-23712 Filed 9-6-84; 8:45 am]
BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-340]

Oriental Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Domestic Quarantine Notices" by adding a new subpart, captioned "Oriental Fruit Fly." The new Subpart quarantines the State of California and establishes regulations restricting the interstate movement of regulated articles from a portion of Los Angeles County in California. This document is necessary on an emergency basis to prevent the artificial spread of Oriental fruit fly into noninfested areas of the United States.

DATES: Effective date of this amendment August 31, 1984. Written comments concerning this interim rule must be received on or before November 6, 1984.

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, 6505 Belcrest Road, Room 728 Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glenn Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

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 without prior opportunity for a public comment period on this interim rule. Due to the possibility that Oriental fruit fly could be spread artifically to certain noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure 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 upon signature. 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

This document amends the "Domestic Quarantine Regulations" in Part 301 of Title 7, Code of Federal Regulations (7 CFR Part 301) by adding a new subpart, captioned "Oriental Fruit Fly (§§ 301.93—301.93-10.)." The new subpart quarantines the State of California, designates areas in California as "regulated areas", designates certain articles as "regulated articles", and imposes conditions on the interstate movement of regulated articles from regulated areas.

The Oriental fruit Fly, *Dacus dorsalis* (Hendl), is a very destructive pest of numerous fruits and vegetables, especially citrus fruits. The Oriental fruit fly can cause serious economic losses and heavy infestations can cause complete loss of crops. It's short life cycle permits the rapid development of serious outbreaks.

Recent trapping surveys by inspectors of Los Angeles County, California Department of Food and Agriculture, and Plant Protection and Quarantine (PPQ), a unit within the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), reveal that portions of Los Angeles County in California are infested with Oriental fruit fly. Three male Oriental fruit flies were collected by inspectors from Jackson traps in lemon trees in the Silver Lake area of Los Angeles County on June 28, 1984. Since then, at least 20 other Oriental fruit flies have been found in other areas of Los Angeles County. The Oriental fruit fly is not known to occur anywhere else in the mainland of the United States.

Officials of USDA and State agencies of California are involved in an intensive trapping and surveying, and the State of California has undertaken an eradication program in the infested areas in California. Also, as explained below, California has taken action to impose restrictions on the intrastate movement of certain articles from the regulated areas in order to prevent the artificial spread of the Oriental fruit fly within California. However, it is also necessary to impose restrictions on the interstate movement of certain articles from the regulated area in order to prevent the artificial spread of the Oriental fruit fly to noninfested areas in other States. Accordingly, it is necessary as a emergency measure to establish Federal regulations for the purpose of preventing the artificial spread of the Oriental fruit fly. These regulations are described below by section.

Quarantine and Regulations (Section 301.93)

Section 301.93(a) reflects a finding by the Secretary of Agriculture that it is necessary to quarantine the State of California and impose regulations on the interstate movement of certain articles designated as regulated articles in order to prevent the artificial spread of Oriental fruit fly. Section 301.93(b) prohibits any common carrier or other person from moving interstate from any regulated area any regulated article except in accordance with conditions prescribed in section 301.93-4. A footnote has been added for informational purposes. This footnote (footnote 1) references the authority of an inspector to stop and inspect, seize, quarantine, treat and otherwise dispose of regulated articles in accordance with the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Definitions (Section 301.93-1)

Section 301.93-1 contains, for informational purposes, definitions of the following terms: "Certificate," "Compliance Agreement," "Deputy Administrator," "Infestation," "Inspector," "Interstate," "Limited permit," "Moved," "Oriental fruit fly," "Person," "Plant Protection and Quarantine," "Regulated area," "Regulated article" and "State." These terms 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).

Regulated Articles (Section 301.93-2)

The regulations impose conditions on the interstate movement of articles which present a significant risk of spreading Oriental fruit fly if moved without restrictions from areas regulated for Oriental fruit fly into or through noninfested areas. These conditions are necessary to prevent the artificial spread interstate of Oriental fruit fly by the movement of these articles. Such articles are designated as regulated articles and are prohibited from moving interstate from regulated areas, except in accordance with

conditions specified in §§ 301.93–4 through 301.93–10.

Section 301.93–2 designates the following articles as regulated articles:

(a) The following fruits, nuts, vegetables and berries:

Akiav (*Wikstroemia phyllyraefolia*)
Alexander laurel (*Calophyllum inophyllum*)
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Banana (*Musa paradisiaca* var. *sapientum*) (*Musa x paradisiaca*)
Banana, dwarf (*Musa nana*)
Barbados cherry (*Malpighia glabra*)
Bell pepper (*Capsicum frutescens grossum*)
Brazil cherry (*Eugenia dombeyi*)
Breadfruit (*Artocarpus altilis*)
Caimitillo (*Chrysophyllum oliviforme*)
Cashew (*Anacardium occidentale*)
Cactus (*Cereus coerulescens*)
Cherimoya (*Anonna cherimola*)
Cherry, Catalina (*Prunus ilicifolia*)
Cherry, Portuguese (*P. lusitanica*)
Chili (*Capsicum frutescens var. longum*)
Coffee, Arabian (*Coffea arabica*)
Country gooseberry (*Averrhoa carambola*)
Cucumber (*Cucumis sativas*)
Custard apple (*Annona reticulata*)
Date palm (*Phoenix dactylifera*)
Dragon tree (*Dracena draco*)
Eggfruit tree (*Pouteria campechiana*)
Elengi tree (*Mimusops elengi*)
Fig (*Ficus carica*)
Gourka (*Garcinia celebica*)
Granadilla, sweet (*Passiflora ligularis*)
Grape (*Vitis* spp.)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*), *P. Littorale*, *P. cattleianum*
Imbu (*Spondias tuberosa*)
Jackfruit (*Artocarpus heterophyllus*)
Jerusalem cherry (*Solanum pseudocapsicum*)
Kitembilla (*Dovyalis hebecarpa*)
Kumquat (*Fortunella japonica*)
Laurel (*Calophyllum inophyllum*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantifolia*)
Longan (*Euphoria longan*)
Loquat (*Eriobotrya japonica*)
Lychee nut (*Lychee chinensis*)
Malay apple (*Eugenia malaccensis*)
Mammee apple (*Mammea americana*)
Mandarin orange (*Citrus reticulata*) (*tangerine*)
Mango (*Mangifera indica*)
Mangosteen (*Garcinia mangostana*)
Mock orange (*Murraya exotica*)
Mulberry (*Morus nigra*)
Myrtle, downy rose (*Rhodomyrtus tomentosa*)
Natal plum (*Carissa grandiflora*)
Nectarine (*Prunus persica* var. *nectarina*)
Oleander, yellow (*Thevetia peruviana*)
Orange, calamondin (*Citrus mitis* and *C. japonica*)
Orange, Chinese (*Citrus japonica hazara*)
Orange, king (*Citrus nobilis*)
Orange, sweet (*Citrus sinensis*)
Orange, Unshu (*Citrus unshu*)
Oriental bush red pepper (*Capsicum frutescens abbreviatum*)
Otaheite apple (*Spondias dulcis*)
Palm, syrup (*Jubaea spectabilis*)
Papaya (*Carica papaya*)
Passionflower (*Passiflora edulis*)
Passionflower, softleaf (*Passiflora mollissima*)
Passionfruit (yellow (*Passiflora edulis flavicarpa*) lilikoi)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepino (*Solanum muricatum*)
Pepper, sweet (*Capsicum frutescens* var. *grossum*)
Persimmon, Japanese (*Diospyros kaki*)
Pineapple guava (*Feijola sellowiana*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Prickly pear (*Opuntia megacantha*) (*Opuntia ficus indica*)
Prune (*Prunus domestica*)
Pummelo (*Citrus grandis*)
Quince (*Cydonia oblonga*)
Rose apple (*Eugenia jambos*)
Sandalwood (*Santalum paniculatum*)
Sandalwood, white (*Santalum album*)
Santol (*Sandericum koetjape*)
Sapodilla (*Manilkara zapota*)
Sapodilla, chiku (*Achras zapota*)
Sapota, white (*Casimiroa edulis*)
Seagrape (*Coccoloba uvifera*)
Sour orange (*Citrus aurantium*)
Soursop (*Annona muricata*)
Star apple (*Chrysophyllum cainito*)
Surinam cherry (*Eugenia uniflora*)
Tomato (*Lycopersicon esculentum*)
Tropical almond (*Terminalia catappa*) (*Terminalia chebula*)
Velvet apple (*Diospyros discolor*)
Walnut (*Juglans hindsii*)
Walnut, English (*Juglans regia*)
Wampi (*Citrus lansium*)
West Indian cherry (*Malpighia punicifolia*)
Ylang-Ylang (*Cananga odorata*)

Except that the list does not include any fruits, nuts, vegetables, or berries which have been canned or frozen below −17.8 °C (0 °F);

(b) Soil within the drip area of plants which produce the fruits, nuts, vegetables, or berries listed in paragraph (a); and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) or (b) when it is determined by an inspector that it presents a risk of spread of the Oriental fruit fly and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions in the regulations.

Articles that are canned or frozen below −17.8 °C (0 °F) are not included as regulated articles since the Oriental fruit fly could not survive under such conditions. Otherwise, based on research and experience, the articles listed in § 301.93–2 (a) and (b) as regulated articles are articles that are likely to cause the artificial spread of the Oriental fruit fly. In addition, since other products, articles, or means of conveyance could, under certain circumstances, be found to present a risk of spreading the Oriental fruit fly, these articles are regulated by paragraph (c). These articles would have to be determined to present a risk by an inspector on a case-by-case basis since it cannot be anticipated specifically which other products, articles, or means of conveyance, if any, would present such a risk. There is authority to regulate nonlisted products, articles, or means of conveyance as set forth in § 301.93–2(c) on an emergency basis in sections 105 and 106 of the Federal Plant Pest Act. If it appears that these additional products, articles, or means of conveyance generally present a risk of spreading Oriental fruit fly an amendment to this rule to include such items in the list of regulated articles will be considered.

Regulated Areas (Section 301.93–3)

It is necessary to designate as regulated areas, areas in which the Oriental fruit fly has been found, areas in which the Deputy Administrator has reason to believe the Oriental fruit fly is present, areas deemed necessary to regulate because of their proximity to the Oriental fruit fly or their inseparability for quarantine enforcement purposes from localities where Oriental fruit fly has been found.

In accordance with this criteria, it is necessary to designate as regulated areas the following portion of Los Angeles County in California:

Los Angeles County

That portion of Los Angeles County beginning at a point where Marine Place intersects the Pacific Ocean; then easterly along Marine Place to its intersection with Marine Avenue; then easterly along Marine Avenue to its intersection with Compton Boulevard; then east along Compton Boulevard to its intersection with Vermont Avenue; then north along Vermont Avenue to its intersection with Interstate 10; then westerly along Interstate 10 to its intersection with Pico Boulevard; then westerly along Pico Boulevard to its intersection with the Pacific Ocean; then southerly along the Pacific Ocean to the point of beginning.

Section 301.93–3(b) allows the Deputy Administrator or an inspector to temporarily designate any non-regulated area in a quarantine state as a regulated area in accordance with this same criteria when such temporary designation is necessary, as an emergency measure to prevent the interstate spread of Oriental Fruit Fly.

Conditions Governing the Interstate Movement of Regulated Articles from Regulated Areas (Sections 301.93–4 through 301.93–10)

Section 301.93–4

Section 301.93–4(a) requires regulated articles moved interstate from regulated

areas to be accompanied by a certificate issued and attached as prescribed by §§ 301.93–5 through 301.93–10 or unless moved as prescribed in § 301.93–4(b).

Section 301.93–4(b) allows a regulated article to move interstate without a certificate or limited permit if the article originates outside of a regulated area, if it is moved directly through the regulated area in an enclosed vehicle or is completely enclosed by a covering adequate to present the introduction of Oriental fruit fly (such as canvas, plastic or closely woven cloth), if the point of origin is clearly indicated by shipping documents, and if the identity of the article is maintained.

In § 301.93–4, a footnote (number 2) is added to remind persons of other applicable domestic plant quarantine and regulation requirements that need to be met during an interstate movement.

Section 301.93–5

Section 301.93–5 explains the conditions for issuing a certificate or limited permit. Under Federal domestic plant quarantine programs there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles upon a finding by the Department that, because of certain conditions (e.g. the article is free of Oriental fruit fly), there is an absence of a pest risk prior to movement. Regulated articles accompanied by a certificate can be moved interstate without further restrictions being imposed. Limited permits are issued for regulated articles when the Department has determined that, because of a possible pest risk, such articles may be safely moved interstate only subject to further restrictions, e.g., movement to limited areas and movement for limited purposes.

Section 301.93–5(a) provides that a certificate shall be issued by an inspector for the movement of a regulated article if: (1) The inspector determines that the article has been treated under the direction of an inspector in accordance with § 301.93–10, or if it comes from a premises of origin which is free from Oriental fruit fly or the inspector determines that the regulated article is free of the Oriental fruit fly; and (2) the inspector determines that it will be moved in compliance with any additional emergency conditions deemed necessary to prevent the spread of Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act; and (3) the inspector determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

A footnote (number 3) is added which explains that USDA can, pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), take emergency actions against any article moving into or through the United States or interstate which are believed to be infested or infected by plant pests.

Section 301.93–5(b) provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for movement of a regulated article if, after consultation with the Deputy Administrator, it is determined that such article is to be moved to a specified destination for specified handling, utilization or processing, and upon evaluation of all of the circumstances involved, the movement will not result in the spread of Oriental fruit fly.

Section 301.93–5(c) allows any person who has entered into and is operating under a compliance agreement to execute and issue a certificate or limited permit for the interstate movement of a regulated article once an inspector has made an initial determination that such article is eligible for a certificate or limited permit in accordance with § 301.93–5 (a) or (b). These initial determinations concerning the eligibility of regulated articles for issuance of a certificate or limited permit are limited to inspectors because of their nature and complexity.

Also, § 301.93–5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector upon a determination that the holder thereof has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact.

Section 301.93–6

Section 301.93–6 provides for the issuance and cancellation of compliance agreements. Specifically, compliance agreements 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 Oriental Fruit Fly (§§ 301.93–301.93–10) 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 and are designated to insure that persons issuing certificates and limited permits are knowledgeable with respect to the requirements of this subpart and have agreed to comply with them.

Section 301.93–6 also provides that a compliance agreement may be cancelled by an inspector supervising its enforcement whenever the inspector finds that a person who has entered into such an agreement has failed to comply with any of the provisions of this subpart or any conditions imposed pursuant thereto. This section also contains provisions for notifying the holder of the compliance agreement of the reasons for cancellation and to provide such holder with an opportunity for a hearing to resolve any conflict as to any material fact. Two footnotes (number 4 and 5) are added for informational purposes. Footnote 4 indicates how to contact the inspectors for inspection or how to obtain additional information from offices of Plant Protection and Quarantine and footnote 5 explains where compliance agreement forms can be obtained.

Sections 301.93–7, 301.93–8 and 301.93–9

Section 301.93–7 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).

Section 301.93–8 requires the certificate or limited permit issued for the movement of the regulated article to be attached to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill or other shipping document during the interstate movement. These provisions are necessary for enforcement purposes and to ensure that persons desiring inspection services can arrange for them before the intended movement date.

Section 301.93–9 explains the Department's policy that services of an inspector needed in order for a person to comply with the provisions of the quarantine and regulations in this subpart are provided without cost during normal business hours, but that any other incidental costs or charges shall not be the responsibility of the Department.

Section 301.93–10

Section 301.93–10 sets forth treatment schedules for certain regulated articles that must be met if such articles are to be certified prior to movement as provided in § 301.93–4. These treatments are recommended because research has determined that these treatments would be adequate to destroy the Oriental fruit fly with little or no effect on the regulated article. Treatment schedules have not been developed for all regulated articles. However, § 301.93–5

provides alternatives to treatment by cold storage, methyl bromide, or diazinon that can be used if an individual wishes to obtain a certificate or limited permit for the interstate movement of the regulated article from a regulated area.

The treatment schedules for regulated articles in § 301.93–10 are as follows:

(1) Avocado: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 2½ hours at 21 °C. (70 °F.) or above followed by refrigeration for 7 days at 7.22 °C. (45 °F.) or below. The 7 day period may include up to 24 hours precooling time. Time between fumigation and start of cooling not to exceed 24 hours, but must include at least 30 minutes aeration.

(2) Tomato: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

(3) Papaya, pepper and tomato: Heat the article by saturated water vapor at 44.44 °C. (112 °F.) until approximate center of article reaches 44.44 °C. (112 °F.), and maintain at 44.44 °C. (112 °F.) for 8¾ hours, then immediately cool.

Note.—Commodities should be tested by the shipper at the 44.44 °C. (112 °F.) temperature to determine each commodity's tolerance to the treatment before commercial treatments are attempted. Pretreatment conditioning is optional. Such conditioning is the responsibility of the shipper and would be conducted in accordance with procedures the shipper believes necessary. It is common to perform pretreatment conditioning. For example, it is the practice to condition eggplant at 43.30 °C. (110 °F.) at 40 percent relative humidity for 6 to 8 hours.

(4) Apple, apricot, cherry, fig, grape, grapefruit, lemon, nectarine, peach, pear, plum, pomegranate and prickly pear: Fumigation with 32 g/m³ methyl bromide at 21 °C. (70 °F.) or above (chamber load not to exceed 80 percent of volume), and at normal atmospheric pressure, followed by refrigeration, as set forth below.

Fumigation exposure time	Refrigeration
2 hours	4 days at 0.55–2.7 °C. (33–37 °F.); or 11 days at 3.33–8.3 °C. (38–47 °F.).
2½ hours	4 days at 3.33–4.44 °C. (38–40 °F.); or 6 days at 5.0–8.33 °C. (41–47 °F.); or 10 days at 8.88–13.33 °C. (48–56 °F.).
3 hours	3 days at 6.11–8.33 °C. (43–47 °F.); or 6 days at 8.86–13.33 °C. (48–56 °F.).

Minimum concentrations for above fumigations.

(25 g minimum gas concentration at ½ hr.)
(18 g minimum gas concentration at 2 or 2½ hrs.)
(17 g minimum gas concentration at 3 hrs.)

Aerate all fruit at least 2 hours following fumigation. Time lapse between fumigation and start of cooling not to exceed 24 hours.

Note.—Some varieties of fruit may be injured by methyl bromide. Shippers should test treat before making commercial shipments.

(5) Soil: Soil within the drip line of plants which are producing or have produced the fruits, nuts, vegetables and berries listed in § 301.93–2(a): Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip line with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are acceptable.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 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 million 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.

This amendment affects the interstate movement of regulated articles from a portion of Los Angeles County in California which is about 100 square miles in size. It appears that very little or no commercial activity occurs in this area because it is an urban area comprised primarily of private residences. The only commercial activity stems from local street vendors, two or three local nurseries and activity at the Los Angeles International Airport. The street vendors and nurseries sell regulated articles primarily for intrastate not interstate movement. Further, the only commercial activity at the Los Angeles International Airport affected by this regulation appears to be approximately 100 entities that ship regulated articles originating outside the regulated area to the Los Angeles International Airport for movement interstate or internationally. None of these entities are small entities within the meaning of the Regulatory Flexibility Act. Further, it appears that this quarantine and regulation would have very little or no impact on the procedures normally followed by these entities (e.g., packing, marking and transporting) for transporting such articles, since these procedures are consistent with the requirements imposed by § 301.93–4(b)(1).

Under these circumstances, 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.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping 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, Plant pests, Plants (agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended by adding a new "Subpart—Oriental Fruit Fly" consisting of §§ 301.93–301.93–10, to read as follows:

Subpart—Oriental Fruit Fly

Quarantine and Regulations

Sec.

Authority: Secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); (secs. 8 and 9, 37 Stat 318, as amended (7 U.S.C. 161, 162); (7 CFR 2.17, 2.51, and 371.2(c)).

Subpart—Oriental Fruit Fly

Quarantine and Regulations

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

(a) *Quarantine and regulations.* The Secretary of Agriculture hereby quarantines the State of California in order to prevent the artificial spread of the Oriental fruit fly, 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 § 301.93–2.

(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.

§ 301.93–1 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 § 301.93–5(c).

(b) *Compliance agreements.* 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) *Infestation.* The presence of the Oriental fruit fly or the existence of circumstances that make it reasonable to believe that the Oriental fruit fly is present.

(e) *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 quarantines and regulations in this subpart.

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

(g) *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 § 301.93–5(b).

(h) *Moved.* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

(i) *Movement or move.* The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier, or carrying, transporting, moving, or allowing to be moved by any means.

(j) *Oriental fruit fly.* The insect known as Oriental fruit fly (*Dacus dorsalis* (Hendl) in any stage of development.

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

(l) *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.

(m) *Regulated area.* Any State, or any portion thereof, listed in § 301.93–3(c) or otherwise designated as a regulated area in accordance with § 301.93–3(b).

(n) *Regulated article.* Any article listed in § 301.93–2 or otherwise designated as a regulated article in accordance with § 301.93–2(c).

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

§ 301.93.2 Regulated Articles.

(a) The following fruits, nuts, vegetables and berries:

Akiav (*Wikstroemia phyllyraefolia*)
Alexander laurel (*Calophyllum inophyllum*)
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Banana (*Musa paradisiaca* var. *sapientum*) (*Musa x paradisiaca*)
Banana, dwarf (*Musa nana*)
Barbados cherry (*Malpighia glabra*)
Bell pepper (*Capsicum frutescens grossum*)
Brazil cherry (*Eugenia dombeyi*)
Breadfruit (*Artocarpus altilis*)
Caimitillo (*Chrysophyllum oliviforme*)
Cashsew (*Anacardium occidentale*)
Cactus (*Cereus coerulescens*)
Cherimoya (*Anonna cherimola*)
Cherry, Catalina (*Prunus ilicifolia*)
Cherry, Portuguese (*P. lusitanica*)
Chili (*Capsicum frutescens var. longum*)
Coffee, Arabian (*Coffee arabica*)
Country gooseberry (*Averrhoa carambola*)
Cucumber (*Cucumis sativas*)
Custard apple (*Annona reticulata*)
Date palm (*Phoenix dactylifera*)
Dragon tree (*Dracena draco*)
Eggfruit tree (*Pouteria campechiana*)
Elengi tree (*Mimusops elengi*)
Fig (*Ficus carica*)
Gourka (*Garcinia celebica*)
Granadilla, sweet (*Passiflora ligularis*)
Grape (*Vitis* spp.)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*), *P. Littorale*, *P. cattleianum*)
Imbu (*Spondias tuberosa*)
Jackfruit (*Artocarpus heterophyllus*)
Jerusalem cherry (*Solanum pseudocapsicum*)
Kitembilla (*Dovyalis hebecarpa*)
Kumquat (*Fortunella japonica*)
Laurel (*Calophyllum inophyllum*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantifolia*)
Longan (*Euphoria longan*)
Loquat (*Eriobotrya japonica*)
Lychee nut (*Lychee chinensis*)
Malay apple (*Eugenia malaccensis*)
Mammee apple (*Mammea americana*)
Mandarin orange (*Citrus reticulata*) (tangerine)
Mango (*Mangifera indica*)
Mangosteen (*Garcinia mangostana*)
Mock orange (*Murraya exotica*)
Mulberry (*Morus nigra*)
Myrtle, downy rose (*Rhodomyrtus tomentosa*)
Natal plum (*Carissa grandiflora*)
Nectarine (*Prunus persica* var. *nectarina*)
Oleander, yellow (*Thevetia peruviana*)
Orange, calamondin (*Citrus mitis* and *C. japonica*)
Orange, Chinese (*Citrus japonica hazara*)
Orange, king (*Citrus nobilis*)
Orange sweet (*Citrus sinensis*)
Orange, Unshu (*Citrus unshu*)
Oriental bush red pepper (*Capsicum frutescens abbreviatum*)
Otaheite apple (*Spondias dulcis*)
Palm, syrup (*Jubaea spectabilis*)
Papaya (*Carica papaya*)
Passionflower (*Passiflora edulis*)
Passionflower, softleaf (*Passiflora mollissima*)
Passionfruit (yellow (*Passiflora edulis flavicarpa*) lilikoi)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepino (*Solanum muricatum*)
Pepper, sweet (*Capsicum frutescens* var. *grossum*)
Persimmon, Japanese (*Diospyros kaki*)

[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 sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Pineapple guava *(Feijola sellowiana)*
Plum *(Prunus americana)*
Pomergranate *(Punica granatum)*
Prickly pear *(Opuntia megacantha) (Opuntia ficus indica)*
Prune *(Prunus domestica)*
Pummelo *(Citrus grandis)*
Quince *(Cydonia oblonga)*
Rose apple *(Eugenia jambos)*
Sandalwood *(Santalum paniculatum)*
Sandalwood, white *(Santalum album)*
Santol *(Sandericum koetjape)*
Sapodilla *(Manilkara zapota)*
Sapodilla, chiku *(Achras zapota)*
Sapota, white *(Casimiroa edulis)*
Seagrape *(Coccoloba uvifera)*
Sour orange *(Citrus aurantium)*
Soursop *(Annona muricata)*
Star apple *(Chrysophyllum cainito)*
Surinam cherry *(Eugenia uniflora)*
Tomato *(Lycopersicon esculentum)*
Tropical almond *(Terminalia catappa) (Terminalia chebula)*
Velvet apple *(Diospyros discolor)*
Walnut *(Juglans hindsii)*
Walnut, English *(Juglans regia)*
Wampi *(Citrus lansium)*
West Indian cherry *(Malpighia punicifolia)*
Ylang-Ylang *(Cananga odorata)*

Except that the list does not include any fruits, nuts, vegetables, or berries which have been canned or frozen below—17.8 °C (0 °F);

(b) Soil within the drip area of plants which produce the fruits, nuts, vegetables or berries listed in paragraph (a); and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) or (b) when it is determined by an inspector that it presents a risk of spread of the Oriental fruit fly and the person in possession thereof thas actual notice that the product, article, or means of conveyance is subject to the restrictions in the regulations.

§ 301.93–3 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 Oriental fruit fly has been found by an inspector or in which the Deputy Administrator has reason to believe that the Oriental fruit fly is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly 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 subpart; 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 Oriental fruit fly.

(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 areea. 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 article 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:

California

Los Angeles County

That portion of Los Angeles County beginning at a point where Marine Place intersects the Pacific Ocean; then easterly along Marine Place to its intersection with Marine Avenue; then easterly along Marine Avenue to its intersection with Compton Boulevard; then east along Compton Boulevard to its intersection with Vermont Avenue; then north along Vermont Avenue to its intersection with Interstate 10; then westerly along Interstate 10 to its intersection with Pico Boulevard; then westerly along Pico Boulevard to its intersection with the Pacific Ocean; then southerly along the Pacific Ocean to the point of beginning.

§301.93–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[2]

Any regulated article may be moved interstate from any regulated area in a quarantined State only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.93–5 and 301.93–10;

(b) Without a certificate or limited permit, if

(1)(i) The article originated outside of any regulated area, and

(ii) Moved directly through (moved without stopping except under normal traffic conditions, such as for traffic lights or stop signs) any regulated area in an enclosed vehicle or is completely enclosed by a covering adequate to prevent the introduction of Oriental fruit fly (such as canvas, plastic, or closely woven cloth), and

(iii) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.93–5 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 in accordance with § 301.93–10; or

(ii) Determines, based on inspection of the premises of origin, that the premises are free from Oriental fruit fly and the article has not been exposed to Oriental fruit fly; or

(iii) Determines, based on inspection of the article, that it is free of Oriental fruit fly; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [3] 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 [4] 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, or processing (such destination and other conditions to be specified in the limited

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

[3] 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 of 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.

[4] 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 Quarantine, Animal and Plant Health Inspector Service, Federal Building, Hyattsville, MD 20782.

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 Oriental fruit fly because life stages of the pest will be destroyed by such specified handling, utilization, or processing;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); 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 movement of regulated articles may be issued by an inspector [4] 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 the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. 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 any 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 allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.93-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[5] 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 to. 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 wrongful cancelled. 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 concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.93-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.93-5(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 movement), request an inspector to take any necessary action under this subpart prior to movement of the regulated article.

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

§ 301.93-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at the 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.

§ 301.93-9 Costs and charges.

The service of the inspector shall be furnished without cost. 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.

§ 301.93-10 Treatments.

The treatment schedules for regulated articles are as follows:

(a) Avocado: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 2½ hours at 21 °C. (70 °F.) or above followed by refrigeration for 7 days at 7.22 °C. (45 °F.) or below. The 7 day period may include up to 24 hours precooling time. Time between fumigation and start of cooling not to exceed 24 hours, but must include at least 30 minutes aeration.

(b) Tomato: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

(c) Papaya, pepper and tomato: Heat the article by saturated water vapor at 44.44 °C. (112 °F.) until approximate center of article reaches 44.44 °C. (112 °F.), and maintain at 44.44 °C. (112 °F.) for 8¾ hours, then immediately cool.

Note.—Commodities should be tested by the shipper at the 44.44 °C. (112 °F.) temperature to determine each commodity's tolerance to the treatment before commercial treatments are attempted. Pretreatment conditioning is optional. Such conditioning is the responsibility of the shipper and would

[5] Compliance Agreement forms are available without charge 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).

be conducted in accordance with procedures the shipper believes necessary. It is common to perform pretreatment conditioning. For example, it is the practice to condition eggplant at 43.30 °C. (110 °F.) at 40 percent relative humidity for 6 to 8 hours.

(d) Apple, apricot, cherry, fig, grape, grapefruit, lemon, nectarine, peach, pear, plum, pomegranite and prickly pear: Fumigation with 32 g/m³ methyl bromide at 21 °C. (70 °F.) or above (chamber load not to exceed 80 percent of volume), and at normal atmospheric pressure, followed by refrigeration, as set forth below.

Fumigation exposure time	Refrigeration
2 hours	4 days at 0.55–2.7 °C. (33–37 °F.); or 11 days at 3.33–8.3 °C. (38–47 °F.).
2½ hours	4 days at 3.33–4.44 °C. (38–40 °F.); or 6 days at 5.0–8.33 °C. (41–47 °F.); or 10 days at 8.88–13.33 °C. (48–56 °F.).
3 hours	3 days at 6.11–8.33 °C. (43–47 °F.); or 6 days at 8.88–13.33 °C. (48–56 °F.).

Minimum concentrations for above fumigations.

(25 g minimum gas concentration at ½ hr.)
(18 g minimum gas concentration at 2 or 2½ hrs.)
(17 g minimum gas concentration at 3 hrs.)

Aerate all fruit at least 2 hours following fumigation. Time lapse between fumigation and start of cooling not to exceed 24 hours.

Note.—Some varieties of fruit may be injured by methyl bromide. Shippers should test treat before commercial shipments.

(e) Soil: Soil within the drip line of plants which are producing or have produced the fruits, nuts, vegetables and berries listed in § 301.93–2(a): Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip line with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are acceptable.

Done at Washington, D.C., this 31st day of August, 1984.

H.L. Ford,

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

[FR Doc. 84–23677 Filed 9–6–84; 8:45 am]
BILLING CODE 3410–34–M

Federal Grain Inspection Service

7 CFR Part 810

U.S. Standards for Corn

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirement for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Corn. FGIS has determined that the standards will be revised to clarify the Sample grade requirements for corn and the definition of distinctly low quality. These changes do not, however, alter the present grades or grade requirements for corn.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 348–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as "nonmajor" because it does not meet the criteria for major regulation as established in the Order.

Regulatory Flexibilty Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most potential users of corn inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees or licensed persons.

Final Action

In conformance with the requirements for the periodic review of existing regulations, FGIS published a Request for Comment on the U.S. Standards for Corn, Soybeans, and Mixed Grain in the May 8, 1980, **Federal Register** (45 FR 30446). This notice addressed specific areas of the standards for consideration, including need for the standards; improvement thereof; clarification or simplification of language; and the usefulness of moisture, test weight, and broken corn and foreign material (BCFM) as grade determining factors.

Fifty-nine comments, the majority of which were on the corn and/or soybean standards, were received as a result of the notice.

A majority of the commenters to the May 8, 1980 notice and request for comments who addressed the adequacy of the corn standards favored some form of revision of the standards; however, there was no consensus of opinion on the need to change one or more particular elements in the standards. Changes which were recommended included: (1) Separation of BCFM into two distinct factors, (2) removal of test weight and moisture as grading factors, (3) revision of the moisture limits, and (4) the inclusion of a hardness test in the standards. After reviewing available information, FGIS determined that further study is necessary to properly evaluate the separation of BCFM and the use of a hardness test. Also, it was determined that additional information is needed to determine if revision or deletion of the moisture and/or test weight limits would facilitate corn marketing.

FGIS proposed, in the June 24, 1983, **Federal Register** (48 FR 28998), that changes be made to the corn standards to incorporate information presently included in the Grain Inspection Handbook on the determination of distinctly low quality (DLQ)and other Sample grade conditions. These changes clarify the determination DLQ and the Sample grade definition in the grade chart. These proposed changes would make the standards uniform in format and structure with the majority of the other standards under the U.S. Grain Standards Act (7 U.S.C. 71, *et seq.*, the Act), but do not change the present grades or grade requirements for corn.

Several comments were submitted on the proposed rulemaking. One commenter concurred with the proposal and indicated the proposed changes would make the corn standards more easily applied and understood. One commenter opposed the proposal and indicated a definition of "distinctly low quality" is not needed in the standards because the proposal would create the new grade. However, the proposed rule did not create a new grade but merely added a definition for DLQ. The rest of the commenters expressed no objection to the proposal but commented on the determination of odor after removal of BCFM, the separation of BCFM into two distinct factors, or the removal of test weight and moisture as grade determining factors.

The basis of determination of odor in the corn standards was addressed in a proposal published in the March 4, 1983, **Federal Register** (48 FR 9282), and in a final rule published in the September 28, 1983, **Federal Register** (48 FR 44165). This final rule provided that the determination of odor may be performed prior to or after the mechanical cleaning of samples of grain. Also, as indicated in the proposed rulemaking, additional

study and/or information is needed to evaluate the separation of BCFM into two distinct factors and the revision or deletion of the factors for moisture and test weight.

Based on these comments and available information, FGIS is revising the corn standards by: (1) Including a definition of distinctly low quality in the standards, (2) deleting § 810.901 *Interpretation with respect to the term "distinctly low quality,"* and (3) expanding the Sample grade definition to include additional information.

To provide a better understanding of the DLQ condition in corn, FGIS proposed that § 810.351 *Terms defined* be expanded to include a definition of distinctly low quality. Accordingly, § 810.901 *Interpretation with respect to the term "distinctly low quality,"* which states the limit for crotalaria seed, is revised by deleting corn from this section and including these limits in the Sample grade definition in § 810.353(a) *Grades and grade requirements for Corn.* In addition, the Sample grade definition is expanded to include the limits for stones, glass, castor beans, cocklebur, unknown foreign substance(s), and animal filth. Inclusion of this information in the definition would clarify the Sample grade requirements for corn and achieve uniformity in format and structure with the majority of the other standards covered under the Act. Also, in the April 5, 1983 **Federal Register** (48 FR 14601) FGIS proposed to revise § 810.901 to apply only to the standards for corn, rye, soybeans, and flaxseed, and delete the reference to mixed grain. It was stated that as these four standard are reviewed, the provisions of § 810.901 would be incorporated elsewhere in the standards with the intention of eventually eliminating § 810.901 from all standards. This change is made in this final rule for corn and § 810.901 is amended accordingly.

In addition, by this final action, FGIS is amending the footnote 1 to paragraph C of § 810.353 so as to delete obsolete references to the Grain Inspection Manual and the Agricultural Marketing Service. References will be made to the Grain Inspection Handbook and FGIS, as appropriate. While this revision did not appear in the proposal, it has been determined that it is a rule of agency organization, procedure and practice and as such is excepted from the general notice of proposed rulemaking requirements in 5 U.S.C. 553. Except for this additional minor non-substantive change, this final rule contains all of the revisions as those published in the proposed rule of June 24, 1983 (48 FR 28998).

Pursuant to section 4(b) of the U.S. Grain Standard Act, no standards established or amendments or revocations of standards under this Act are to become effective less than one calendar year after promulgation thereof, unless in the judgement of the Administrator, the health interest or safety require that they become effective sooner. These revisions are made effective one calendar year after publication of this final rule.

List of Subjects in 7 CFR Part 810

Exports, Grain.

PART 810—UNITED STATES STANDARDS FOR CORN

Accordingly, 7 CFR Part 810 of the regulations is amended as follows:

1. Section 810.351 is amended by adding paragraph (l) to read as follows:

§ 810.351 Terms defined.

* * * * *

(l) *Distinctly low quality.* Corn which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition, and which cannot be graded properly by use of the other grading factors provided in the standards. Distinctly low quality shall include any objects too large to enter the sampling device; i.e., large stones, wreckage, etc.

2. Section 810.353 is amended by revising paragraph (a) and footnote 4 to paragraph (c) to read as follows:

§ 810.353 Grades, grade requirements and grade designations.

* * * * *

(a) *Grades and grade requirements for corn. (See also paragraph (d) of this section.)*

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—			
		Moisture (percent)	Broken corn and foreign material (percent)	Damaged kernels	
				Total (percent)	Heat damaged kernels (percent)
U.S. No. 1	56.0	14.0	2.0	3.0	0.1
U.S. No. 2	54.0	15.5	3.0	5.0	0.2
U.S. No. 3	52.0	17.5	4.0	7.0	0.5
U.S. No. 4	49.0	20.0	5.0	10.0	1.0
U.S. No. 5	46.0	23.0	7.0	15.0	3.0

U.S. Sample Grade: U.S. Sample grade shall be corn which—

(1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(2) In a 1000 gram sample, contains 8 or more stones which have an aggregate weight in excess of 0.20 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis*), 8 or more cocklebur, 4 or more particles of an unknown substance(s) or a commonly recognized harmful or toxic substance(s), or animal filth in excess of 0.20 percent; or

(3) Has a musty, sour, or commercially objectionable foreign odor; or

(4) Is heating or otherwise of distinctly low quality.

* * * * *

(c) * * * [4]

[4] The conditions are listed in the Grain Inspection Handbook. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

3. Section 810.901 is revised to read as follows:

§ 810.901 Interpretation with respect to the term distinctly low quality.

The term distinctly low quality when used in the United States Standards for Soybeans, and Flaxseed, shall be construed to include gain which contains three or more crotalaria seeds (*Crotalaria* spp.) in 1,000 grams of grain.

Authority: (Secs. 5, 18, Pub. L. 94–582, 90 Stat. 2869, 2884 (7 U.S.C. 76, 87(e)).

Dated: August 22, 1984.

D.R. Galliart,

Acting Administrator.

[FR Doc. 84–23876 Filed 9–6–84; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 480]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at

235,500 cartons during the period September 9–15, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 9, 1984.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on September 4, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is steady.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.780 is added as follows:

§ 910.780 Lemon Regulation 480.

The quantity of lemons grown in California and Arizona which may be handled during the period September 9, 1984, through September 15, 1984, is established at 235,500 cartons.

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

Dated: September 5, 1984.

Thomas R. Clark,

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

[FR Doc. 84–23826 Filed 9–6–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 918

[Georgia Peach Reg. 3, Amdt. 1]

Fresh Peaches Grown in Georgia; Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of the amended interim rule.

SUMMARY: The Department of Agriculture (USDA) issued an interim rule (Georgia Peach Regulation 3) on April 30, 1984, (49 FR 18281) and a revised interim rule (Georgia Peach Regulation 3, Amendment 1) on June 14, 1984, (49 FR 24509). Both rules revised minimum grade requirements currently in effect for peaches grown in Georgia shipped fresh to markets outside the state to assure orderly marketing of the 1984 crop of Georgia peaches. The revised interim rule also made certain nonsubstantive format changes in the regulation for clarification purposes. This document adopts the June 14, 1984 interim rule as final.

EFFECTIVE DATE: October 9, 1984.

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

SUPPLEMENTARY INFORMATION: This action has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The interim rule (Georgia Peach Regulation 3) required that the minimum grade requirement be 85 percent U.S. No. 1 quality, with additional allowances for hail damage, split pits, and decay. The rule also established a minimum size requirement of 1⅞ inches in diameter, except that peaches could be shipped as small as 1¾ inches if they graded at least U.S. Extra No. 1. Peaches shipped to adjacent markets in closed containers marked "For Sale in Adjacent Markets Only" being at least 1¾ inches in diameter were exempted from the above grade and size requirements. Bulk peaches shipped to adjacent markets were also exempted from those requirements.

The amended interim rule (Georgia Peach Regulation 3, Amendment 1) continued the grade and size requirements previously stated, but it also allowed for shipments of peaches damaged with bacterial spots and sprayburn not scored as serious damage.

The amended interim rule provided that interested persons could file public comments through July 16, 1984, none of which were received. Accordingly, the USDA has decided to leave § 918.326 in effect as previously issued in the amended interim rule.

The Georgia peach regulation and amended regulation were based upon the recommendation of the Georgia peach Industry Committee comprised of grower members and a public representative, and was issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Secretary finds that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 918

Marketing Agreements and Orders, Fresh Peaches, Georgia.

Accordingly, the interim rule published at 49 FR 24509, June 14, 1984 is adopted as final.

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

Dated: August 31, 1984.

Thomas R. Clark,

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

[FR Doc. 84–23743 Filed 9–6–84; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3143]

Estes Park Accommodations Association, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires an association composed of operators of motels, hotels, cabins, and campgrounds in the area of Estes Park, Colorado, to cease inhibiting competition by restricting, impeding or advising its members and others against the truthful advertising of the terms and conditions of their accommodations; and by declaring such activities unethical. The association is precluded from taking any action against a person charged with violating an ethical standard without first providing that person with reasonable notice of the allegations and a hearing, as well as written findings and conclusions concerning the allegations. The order further requires the association to remove from its membership application, policy statement or guidelines, any provision which is inconsistent with the prohibitions contained in the order.

DATE: Complaint and Order issued August 21, 1984.[1]

FOR FURTHER INFORMATION CONTACT: Claude C. Wild, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, CO 80202, (303) 837-2271.

SUPPLEMENTARY INFORMATION: On Wednesday, June 13, 1984, there was published in the **Federal Register**, 49 FR 24385, a proposed consent agreement with analysis In the Matter of The Estes Park Accommodations Association, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions/or requirements; § 13.533-45 Maintain records.

List of Subjects in 16 CFR Part 13

Advertising, Trade practices, Travelers' accommodations.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 84-23670 Filed 9-6-84; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6546; IC-14120; S7-14-84]

Amendments to the Offering Exemption Under Regulation E of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting 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 Investment 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. The Commission is adopting amendments to Regulation E that (1) increase the size of offerings that may be made under the regulation, (2) expand the base of potential issuers by permitting certain investment companies that elect to be treated as business development companies under the Investment Company Act of 1940 to use the exemption, (3) permit the use of a preliminary offering circular in certain underwritten offerings, and (4) provide updated schedules of disclosure for small business investment companies and business development companies that would be clearer and easier to use. The purpose of the 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 the exemption and by removing unnecessary regulatory requirements that previously restricted its use.

EFFECTIVE DATE: September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Anthony A. Vertuno, Chief of Office, (202) 272-2107, 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:

Discussion

The Commission is adopting amendments to Regulation E [1] and Regulation A [2] under the Securities Act of 1933 ("Securities Act") [3] substantially as they were proposed for comment.[4] Specifically, the Commission is adopting amendments to: (1) Increase the aggregate offering price of all securities of an issuer that may be sold within a twelve mon'h period under Regulation E from $500,000 to $5,000,000; (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 ("BDCs") under the Investment Company Act of 1940 ("1940 Act") [5] to use Regulation E, and preclude BDCs from using Regulation A; and (v) revise Schedule A of Regulation E for small business investment companies ("SBICs") and add Schedule B to that regulation for use by BDCs. The Commission's Proposing Release contains a more detailed discussion of the background and purpose of the amendments.

The Commission received five letters of comment, all of which generally supported the proposed revisions and the Commission's efforts to revise

[1] 17 CFR 230.601-230.610a.

[2] 17 CFR 230.251-230.264.

[3] 15 CFR 77a *et seq.*

[4] Investment Company Act Release No. 13903 (April 25, 1984) [49 FR 18532 (May 1, 1984)] ("Proposing Release").

[5] 15 U.S.C. 80a-1 *et seq.*

Regulation E. Two commentators,[6] while approving the Commission's efforts, stated, however, that the aggregate offering price of all securities of an issuer that may be sold within a twelve month period under Regulation E should be raised to $5,000,000 (the statutory limit provided by section 3(b) of the Securities Act)[7] instead of the $2,500,000 proposed by the Commission. These two commentators also recommended that the Commission develop a short form registration statement for the initial public offerings of SBICs and BDCs similar to Form S–18.[8] Another commentator suggested a modification of Item 5 of Schedule B for BDCs that would change the item to require certain information about a portfolio company of a BDC only if the BDC owns 5% or more of a class of securities of the portfolio company or if the company constitutes 5% or more of the assets of the BDC.

The Commission has decided to increase the aggregate offering price of all securities of an issuer that may be sold within a twelve month period under Regulation E to $5,000,000. In supporting their recommendation for a $5,000,000 ceiling under Regulation E, two commentators stated that the capital needs of SBICs and BDCs are generally greater than other types of companies (which may use Regulation A or Form S–18). While small operating companies are generally structured in one line of business, SBICs and BDCs use their capitalization to invest in a number of portfolio companies, often with follow-up investments at a later date. The multiple portfolio investments, together with the marketplace level for investment dollars committed to each transaction, the commentators argued, requires a substantially higher aggregate offering price ceiling under Regulation E than under Regulation A, and specifically requires $5,000,000 as a realistic minimum ceiling under Regulation E.[9] The Commission believes that a $5,000,000 ceiling under Regulation E reflects an offering level that would facilitate capital formation by SBICs and BDCs consistent with the Congressional intent to foster this capital formation under the Small Business Investment Act of 1958 and the Small Business Investment Incentive Act of 1980,[10] while maintaining a level of investor protection traditionally afforded smaller offerings.

In light of the increase of the aggregate offering price limit under Regulation E to $5,000,000, the Commission has reviewed the items specifying required disclosures under proposed Schedules A and B of Regulation E pertaining to portfolio companies. The Commission has decided to modify slightly Item 5 of Schedule B for BDCs and add a corresponding Item 5 of Schedule A for SBICs requiring certain information about the portfolio companies held by the issuer. Disclosure of certain information about portfolio companies presented in tabular form is useful and material to investors particularly since SBICs and BDCs generally will invest in a relatively small number of companies with only limited turnover in their portfolio. The addition of the item for SBICs would require no additional expense or time to prepare because SBICs are required to include this information in the financial reports filed with the SBA. The modification of Item 5 of Schedule B would add columns to reflect the value as of the balance sheet date of the BDC's investment in each portfolio company and the percentage of the total value of the BDC's portfolio of each portfolio company. This information would also be included in Item 5 of Schedule A for SBICs. The Commission has decided not to adopt a 5% threshold test for disclosure of portfolio companies as recommended by one commentator. Investments not meeting the proposed threshold are potentially significant in the aggregate, and the additional burden on issuers is extremely minimal.

Finally, as noted above, two commentators suggested that the Commission consider adoption of a short form registration statement for the initial public offerings of SBICs and BDCs similar in concept to Form S–18. The commentators' suggestion for a short form registration statement could be achieved by developing a simplified prospectus within a form that would integrate registration and disclosure requirements under the Securities Act and the 1940 Act for SBICs and BDCs.[11] Since the Commission did not propose a single registration form that would satisfy the registration requirement of both the Securities Act and the 1940 Act, it is not feasible at this time to adopt an integrated registration form for the initial public offerings of SBICs.[12] The Commission believes, however, that this is a good suggestion and plans to develop either a simplified registration statement and prospectus for SBICs and BDCs that would satisfy Securities Act and 1940 Act requirements, or a short form that could be used in conjunction with Regulation E to satisfy 1940 Act registration requirements for SBICs.

List of Subjects

17 CFR Part 230

Advertising, Confidential business information, Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

Text of Amendments

The Commission is publishing amendments to Part 230 and Part 239 of Chapter II, title 17 of the Code of Federal Regulations as follows:

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[6] The U.S. Small Business Administration ("SBA") and the National Association of Small Business Investment Companies ("NASBIC").

[7] These rule amendments are promulgated pursuant to sections 3(b) and 3(c) of the Securities Act [15 U.S.C. 77c(b), (c)]. Section 3(b) has a statutory limit of $5,000,000 for offering exemptions; section 3(c) (which provides statutory authority for an offering exemption for SBICs) has no statutory limit.

[8] Form S–18 [17 CFR 239.28] is a simplified registration statement form under the Securities Act that is designed to facilitate the entry of small businesses into the public capital markets. *See* Securities Act Release No. 33–6489 (September 23, 1983) [48 FR 45386 (October 5, 1983)]. Form S–18 is not available to SBICs and BDCs.

[9] While Regulation A and Regulation E are both small offerings exemptions, Regulation E, as amended, is available only to SBICs and BDCs, and, as such, is directed to the distinctive characteristics and regulatory aspects under the 1940 Act of these kinds of investment companies. They do not, of course, effect the disclosure requirements or offering ceiling provided under Regulation A for operating companies.

[10] Section 102 of the Small Business Investment Act [15 U.S.C. 661] (1958); H.R. Rep. No. 1341, 96th Cong., 2d Sess. 20–21 (1980). *See. also* S. Rep. No. 958, 96th Cong., 2d Sess. 4 (1980).

[11] If a BDC is making its initial public offering as a Securities Act registration, it may register its securities under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a *et seq.*] on Form 8–A, which is basically a wrap-around form.

[12] Two of the commentators remarked on the use of Regulation E for the initial public offerings of SBICs and BDCs. The offering exemption under Regulation E would be available for the initial public offerings of SBICs and BDCs so long as these companies complied with their other registration requirements with the Commission under the 1940 Act and the Exchange Act respectively. SBICs register under the 1940 Act on Form N–5, an integrated form enabling SBICs also to register their securities under the Securities Act, if they so desire. Because of the need to register an SBIC under the 1940 Act on Form N–5, as a practical matter, an SBIC would probably not use Regulation E for its initial public offering. BDCs may register their securities under section 12 of the Exchange Act 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 an initial public offering as a Securities Act registration, it may register its securities under the Exchange Act on Form 8–A. If a BDC is making its initial public offering under the Regulation E offering exemption and has not registered other securities under the Exchange Act, it may register its securities under the Exchange Act on Form 10.

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 company" 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 $5,000,000:

* * * * *

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. Introductory text to paragraph (a) and paragraph (a)(1) are revised and paragraph (f) is added to § 230.605 as follows:

§ 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 to 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 the 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 offering circular;

(4) An offering circular 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 section heading 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 filed or used in connection with an offering of securities under §§ 230.601 to 230.610a if the aggregate offering price of all

securites 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 to read as follows:

§ 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 than 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 non-cash 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 Investment Company Act of 1940.

(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 foreseeable 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 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 § 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 average 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. 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	Number of shares or amount of loan to portfolio companies

Percentage of class of securities owned, controlled or held by issuer	Value	Percentage of total value of portfolio companies

Instructions

1. Provide the city and state for address of portfolio companies.

2. State the value as of date of balance sheet required under Item 7.

Item 6. 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 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 Investment Company Act of 1940 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 7. 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 blance 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 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 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 brief 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) 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).

(3) 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. Same as Item 5 of Schedule A.

Item 6. Same as Item 6 of Schedule A.

Item 7. Same as Item 7 of Schedule A.

7. 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

8. 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

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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 arrangement 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.

* * * * *

Availability of Final Regulatory Flexibility Analysis

In accordance with 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis with regard to amendments to Regulation E and Regulation A under the Securities Act. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the release proposing those amendments to Regulation E and Regulation A at 49 FR 18532 (May 1, 1984). Anyone who wishes to obtain copies of the Final Regulatory Flexibility Analysis of the amendments to Regulation E and Regulation A should contact 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.

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.

Dated: August 30, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–23615 Filed 9–6–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 3, 375, 381, 385, and 389

[Docket No. RM82–35–000; Order No. 395]

Fees Applicable to General Activities

Issued August 31, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to establish fees for certain general activities of the Commission, including petitions for declaratory orders, requests for interpretation from the Office of the Chief Accountant, review of Department of Energy denials (DOE) of adjustments, review of DOE remedial orders, and search time for Freedom of Information Act requests. This is the third of a series of rules to be issued on fees. These fees are authorized by the Independent Offices Appropriation Act, which provides for the collection of fees to make agencies self-sustaining to the extent possible.

EFFECTIVE DATE: This rule is effective October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph Hartsoe, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa and Oliver G. Richard III.

I. Introduction

By this rule, the Federal Energy Regulatory Commission amends Part 381 of its regulations to establish fees for the general activities of the Commission. In an earlier rulemaking, the Commission adopted the methodology for establishing fees with respect to services and benefits provided by the Commission as well as the procedures for billing, collecting, waiving, and updating fees.[1] This rule primarily applies this methodology to establish the following fees:

(1) $4,900 for a petition for issuance of a declaratory order other than one solely concerned with matters arising under Part I of the Federal Power Act;

(2) $100 for a request for interpretation from the Office of Chief Accountant;

(3) $3,700 for a petition for review of a Department of Energy (DOE) denial of adjustment if the amount in controversy exceeds $30,000; $600 if the amount in controversy is $10,000 up to and including $29,999; and $100 if the amount in controversy is $0 up to and including $9,999;

(4) $2,900 for review of a DOE remedial order if the amount in controversy exceeds $30,000; $600 if the amount in controversy is $10,000 up to and including $29,999; and $100 if the amount in controversy is $0 up to and including $9,999; and

(5) $5.60 per quarter hour for professional employees, and $2.40 per quarter hour for clerical employees for search time performed while responding to Freedom of Information Act requests.

II. Background

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for services and benefits it provides.[2] The principal interpretation of the IOAA is Bureau of the Budget Circular A–25,[3] which states that a fee should be assessed for each measurable unit or amount of Government service or property from which an identifiable recipient derives a special benefit.

In accordance with the IOAA and authoritative interpretations of that statute,[4] the Commission, in establishing any fee, must:

(a) Identify the service for which the fee is being assessed;

(b) Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

(c) Base the fee on as small a category of service as practical;

(d) Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered to the beneficiary; and

(e) Set a fair and equitable fee for the service.

For the reasons detailed below, the Commission believes that the fees set forth in this final rule for general activities of the Commission meet these requirements.

III. Summary and Analysis of Comments

This rule establishes fees for four general activities of the Commission: reviewing petitions for issuance of declaratory orders, reviewing requests for interpretations by the Office of Chief Accountant, reviewing DOE denials of adjustments, and reviewing DOE remedial orders.

Under Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207 (1983), a person may file a petition for issuance of a declaratory order to terminate a controversy or remove uncertainty concerning matters under the Natural Gas Policy Act of 1978; the Public Utility Regulatory Policies Act of 1978; the functions delegated to the Commission by the Department of Energy Organization Act and the Secretary of Energy; and the Commission's regulations. For these types of declaratory orders a filing fee of $4,900 has been set. However, the Commission has excluded declaratory orders that solely concern hydroelectric matters under Part I of the Federal Power Act (FPA) because these costs are included in calculating annual charges under section 10(e) of the FPA, 16 U.S.C. 803(e) (1982). (See Section III.F.3 below).

A person can also request an interpretation by the Office of Chief Accountant in accordance with § 3.8 of the Commission's regulations, 18 CFR 3.8 (1983). An interpretation states a staff opinion of the proper application of the Commission's reporting and record retention requirements and Uniform

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[1] Final Rule, Fees Applicable to Producer Matters under the Natural Gas Act, 49 FR 5074 (Feb. 10, 1984) (Docket No. RM82–25–000). *See also*, Final Rule, Fees Applicable to Natural Gas Pipeline Rate Matters, 49 FR 5083 (Feb. 10, 1984) (Docket No. RM83–2–000).

[2] Act of Aug. 31, 1951, Ch. 376, Title V, section 501, 65 Stat. 290, *as codified*, 31 U.S.C. 9701 (1982).

[3] Bureau of the Budget Circular A–25 (Sept. 23, 1959). This interpretation has been cited by the United States Supreme Court as "the proper construction of the Act." FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[4] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light Co. v. NRC, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F.2d 1135 (D.C. Cir. 1976).

Systems of Accounts in light of the particular facts or circumstances raised by the applicant. This fee is $100.

The Commission reviews a Department of Energy (DOE) denial of adjustment under Subpart J of its regulations, 18 CFR Part 385, Subpart J (1983). Review provides appellants with another opportunity to seek relief from DOE rules and orders. Appellants initiate review and must, by statute, do so before seeking judicial review. Similarly, the Commission reviews DOE remedial orders under Subpart I of its regulations, 18 CFR Part 385, Subpart I (1983). Review may result in the Commission's revocation or modification of a DOE remedial order. As with DOE denials of adjustments, appellants initiate review and must do so before seeking judicial review. The fees for these two types of reviews range from $100 to $3,700 depending on the amount in controversy.

The Commission is adopting in this rule a procedure to update fees for Freedom of Information Act (FOIA) requests. This rule also applies that procedure to update FOIA fees and establish fees of $5.60 per quarter hour of search time performed by a professional employee and $2.40 per quarter hour for search time performed by a clerical employee. The fees for duplication will remain the same.

The Commission has decided not to establish a fee for filing a petition for rehearing at this time. In those cases where an applicant's petition for rehearing seeks a private benefit, the Commission believes it could charge a fee for reviewing that petition. However, there are also cases where a petition for rehearing raises matters that, on balance, address more general public interest issues. In those cases, the Commission does not believe it would be reasonable to impose a fee. Because of the large administrative burden involved in trying to segregate which rehearing petitions could be subject to a fee, the Commission has decided not to set a fee for a petition for rehearing at this time.

One commenter states that the Commission should not charge a fee for rulemakings. The Commission is not charging a fee for rulemakings in this rule. The Commission is also not charging a fee for a number of other actions it takes relating to its jurisdictional statutes. Those actions include Commission preliminary and formal enforcement investigations, Commission enforcement-related settlements and litigation, news releases, and litigation in the courts. As for these activities, the Commission believes that these actions generally do not manifest the necessary, identifiable benefit to an individual entity. As for rulemakings, while the Commission believes that these actions might warrant fees, the Commission has decided not to establish a separate fee category for these items at this time.[5]

A. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A–25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[6] In addition, the Circular states that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values * * * than those which accrue to the general public."[7]

A number of commenters state that to be classified as an allowable "fee" under the IOAA, a particular charge must be incident to a voluntary act. Seeking guidance on the proper application of jurisdictional statutes or Commission regulations, they say, are not voluntary acts but are required because violations of Commission statutes and regulations may carry heavy penaltites. Likewise, review of DOE actions, they say, are not voluntary acts, but are required by the Department of Energy Organization Act before initiating judicial review. This type of argument has previously been rejected in *National Cable Television Association, Inc.* v *FCC*, 554 F.2d 1094 (D.C. Cir. 1976); *Mississippi Power & Light Co.* v. *NRC*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980); and *Electronic Industries Association* v. *FCC*, 554 F.2d 1109 (D.C. Cir. 1976).

In response to the argument put forth by cable television operators that they receive no benefit from an FCC license because the cable television industry would have developed better without FCC regulation, the D.C. Circuit in *National Cable Television* said "[a]ll that may be true, but these distinctions have not relevance here. The fact is that the FCC has undertaken to regulate this industry and has so far been sustained by the Supreme Court in this endeavor, with the result that a certificate of compliance *has* become a necessary and therefore valuable license."[8] The Fifth Circuit in *Mississippi Power & Light* similarly held that since a license from the NRC is an absolute prerequisite to operating a nuclear facility, that license is a benefit not shared by other members of society.[9] In addition, the D.C. circuit held in *Electronic Industries Association* that agencies can charge for services which assist a person in complying with his statutory duties because these services create an independent private benefit.[10] Hence, the Commission believes this issue has been settled by the courts and need not be the subject of further discussion in this rule.

Many commenters argue that the proposed rule fails to explain how requesters of these services receive a greater benefit from the Commission's regulations than the general public. They claim that the Commission's regulations offer no greater benefit than the authorization to carry out activities in interstate commerce in conformity with a regulatory scheme which benefits only the general public. Other commenters raise related arguments: that Commission regulation is not a benefit but a detriment to those regulated; that the courts have held that the Commission's activities are primarily for the benefit of the general public, and that the Commission itself has recognized that its functions primarily benefit the general public.

While consumers may be ultimate beneficiaries from Commission regulation, that is not determinative of the Commission's right to charge fees under the IOAA. The IOAA provides for the collection of fees for each service or thing of value provided by the agency.[11] Commission review of DOE actions and interpretations of its enabling statutes and regulations are the types of services for which the IOAA expressly authorizes the collection of fees. Not only is the statute clear on its face, but the D.C. Circuit has held that a fee otherwise authorized by the IOAA is not rendered invalid because the public may also enjoy downstream benefits.[12] In

[5] The Commission is considering, in other rulemakings, fees to recover the costs of certain rulemakings. In those cases, the Commission believes that there are special benefits provided to identifiable recipients.

[6] Budget Circular A–25, at 1–2.

[7] *Id.* at 2.

[8] 554 F.2d at 1101–02 (footnotes omitted, emphasis in original).

[9] 601 F.2d at 229.

[10] 554 F.2d at 1115.

[11] 31 U.S.C. 9701 (1982).

[12] Electronic Industries Association v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976). In that case, petitioners argued that fees should not be assessed for tariff filings or equipment testing and approval. The court answered that even though both activities were required by statute, the FCC was entitled to charge for services which assisted a person in complying with his statutory duties. Such services, the court said, create an independent private benefit

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addition, the fact that the Federal Power Commission (FPC) took an opposite approach toward fees in 1965 does not prevent this successor Commission from adopting a different policy. Not until the 1970's did the courts begin reviewing fee structures of various agencies. It was after those cases were decided that the law became clear, and the Commission now believes that it can charge the fees established by this rule.

Commenters also assert that the imposition of a substantial fee to review DOE remedial orders and denials of adjustments are barred by due process considerations because the fee may have a chilling effect on the exercise of the right to judicial review due to economic hardship or indigency. The Commission disagrees with these assertions because we believe that the reduced fees and the case-by-case waiver procedures will prevent economic hardships and adequately protect the rights of indigents.

B. Smallest Practical Unit

In designing a fee schedule, the Commission has established fees on the smallest unit or category of service that is practical. In remanding fees established by the FCC, the United States Court of Appeals for the D.C. Circuit set forth the most authoritative interpretation of this IOAA requirement as follows:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.[13]

Further, Budget Circulars A–25 states that "[c]osts shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose."[14]

Commenters argue that fees for declaratory orders should be determined based on subject area because the time spent on requests in one area of the Commission's jurisdiction may differ from the time spent on another area. The Commission understands these concerns, but one fee for declaratory orders is necessary because of administrative limitations. Specifically, the Commission, in keeping with Budget Circular A–25, classifies its fees by types of applications or proceedings (*i.e.* declaratory orders). The Commission has calculated its fees from its Management Information System (MIS). The MIS is an agency system established to track workload. The MIS tracks time by work-months based on types of applications or proceedings. The Commission is establishing one fee for an entire application or proceeding because that application or proceeding is the smallest unit practical for which the Commission can develop fees.[15]

C. Basis of Cost Recovery

1. Direct and Indirect Costs Included

The Commission's fee schedule is designed to account for all types of recoverable costs associated with the processing of the specified applications and filings under the Commission's jurisdictional statutes. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. The attributable costs include these direct salary costs as well as the substantial amount of indirect costs which the Commission expends in its reviews. As the Fifth Circuit has stated, employees

> * * * must be supplied [with] working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that * * * [they are] hired, paid on a regular basis and provided specialized training courses. These and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application.[16]

Accordingly, the Commission has included in its fee calculations a proportionate share of the following items: salaries and benefits; travel; rents; communications and utilities; printing; other support services; supplies; and equipment.

2. Methodology

(a) *Underlying Considerations.* The Commission's calculation of the costs of providing each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of the services. The fees in this rule are based on information obtained through the Commission's Management Information System (MIS), which provides the amount of time spent on all Commission functions. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, gas producer rates, oil pipeline regulation, hydropower regulation, and electric power regulation. The MIS workload data are recorded on a monthly basis.

With respect to each function, the supervisor records for the MIS the number of projects initiated (receipts) and completed (completions) in a particular time period. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities." The supervisor in each organizational unit reports to the MIS the amount of time spent by staff on each functional category in terms of work-months. A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. In addition, time sheets are coded by functional categories and are filled out Commission-wide every two weeks. Supervisors check employee time sheets for accuracy in coding.

Support functions regularly undertaken, with respect to any program, are not docketed and may not be measured in terms of receipts and completions. The nature of these functions makes impractical any measurements in terms of receipts and completions, but these functions are nevertheless essential to the completion of any docketed activity. This time is also allotted and reported by unit supervisors in terms of work-months.

Only those support functions that are related to providing a benefit are included in the calculations. These support functions will be referred to as "support activities" and can be divided into three categories. First, there are support activities that involve general supervision, personnel management, and

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since they provide a means for the carrier to obtain its revenues and to regulate subscriber use of its facilities. The court concluded that although the statute was enacted in order to protect the public against excessive or unreasonably discriminatory or preferential charges, that result is only an incidental benefit from the service which is rendered by the agency, *i.e.*, providing the means for carriers to comply with the statute.

[13] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116 (D.C. Cir. 1976).

[14] Budget Circular A–25, at 3.

[15] The Commission has recently updated the MIS by starting to track its workload on a new system (Time Distribution Reporting System) which may provide an even greater degree of accuracy of Commission workload. At this time, however, the Commission does not have sufficient data to develop actual fees from this system.

[16] Mississippi Power & Light Co. v. NRC, 601 F.2d at 232.

routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave. This category can be labeled as "administrative services" and is included in the fee structure because it is essential to the Commission's ability to complete docketed activities.

Second, support staff responds to requests for information that may not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies. The Commission has excluded from its calculation of fees the work-months associated with this second category of "inquiries and internal communications" because this type of support activity is not involved in completing docketed activities.

Third, support staff establishes or reviews certain Commission operations and procedures. This is "technical management and operations." These activities include work on the Commission budget, management information systems, and program development functions such as special studies or briefings on relevant subjects, but which are not identified with just one docketed activity. This category is therefore an integral part of completing docketed activities.

The comments indicate confusion as to the difference between indirect costs and support functions. While both are types of indirect costs, they are channeled into the cost calculation at different times. Direct and indirect costs (such as physical plant overhead) are added together to come up with an average monthly cost per Commission employee of $4,770.67. That figure is multiplied by the time (in work-months) taken to review a type of application. Support activities represent work-months expended which cannot be allocated directly to each individually-tracked, docketed activity. Therefore, the work-months used in the fee calculation consist both of time actually spent reviewing a particular type of application and also a pro-rata share of the time spent on support activities associated with reviewing that type of application.

(b) *Calculation of Fee Amounts.* For purposes of this rule, the Commission has used the same methodology to determine the cost of providing any service or benefit as it has used in the other final fees rules. First, the work-months reported for a class of docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities for that activity. This figure, representing the total number of work-months dedicated to a class of docketed activity for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete one proceeding in that given class of docketed activity.

Second, the Commission used the following data provided by its Office of Program Management to figure the average cost of a work-month, based on the Commission's FY 1983 actual costs.

Salaries and benefits	$46,228
Based on year and payroll data and benefits at 26%	
Travel	726
Transportation of things	7
Rents, communications & utilities	3,185
Printing	1,899
Other services—excludes direct program contracts	4,684
Supplies	477
Equipment	42
Total	$57,248

The total was divided by 12 to yield an average work-month cost of $4,770.67.

Third, in order to determine the cost of an activity, the Commission multiplied the average work-month cost by the average number of work-months required to complete the activity.[17]

There were numerous complaints about the cost methodology proposed in the Notice of Proposed Rulemaking (NOPR), 47 FR 27375 (June 24, 1982), such as inadequate information to verify the costs, calculations based on salary and overhead from one year and time per project from another year, use of budgeted figures as opposed to actual figures, use of average work-month costs rather than median or mode, and use of only one year for determining fees.

As for what costs are permissible for inclusion, the IOAA provides for the collection of fees which include both direct and indirect costs to the Government. Thus, there is no reason to exclude any item except for support functions relating to inquiries and internal communications, as discussed above. Second, in devising its fee schedule, the Commission is authorized to determine or estimate its costs "from the best available records in the agency."[18] For this Commission, that means the MIS.

The NOPR proposed to use 1982 budgeted figures to determine its costs, and 1981 actual completions and work-months to determine the fees. In addition, the method of updating the fees was tied to 1981 as the "base year." Each subsequent year was to be adjusted by the change in costs between the base year and the year in consideration. Many commenters argue that 1981 may not be a typical year for completions and work-months, and thus, should not be the base year. The Commission agrees with this argument, and believes it is more accurate to calculate fees from actual completions and work-months, as well as actual costs. Consistent with its decision in the other final fees rule, the Commission is using actual fiscal year figures in this rule as well as in updating the fees in subsequent years (see section III D. below). The fees in this rule are based upon actual fiscal year 1983 direct and indirect costs, completions, and work-months. This approach eliminates any inaccuracies which could arise from using budgeted figures and will keep data current.

One commenter claims that the Commission gives no consideration to the number of staff personnel actually involved in a specific activity, but rather the commenter says the Commission assumes it will operate with a full staff. The Commission's MIS calculates work-months for every office at the end of each month, based on the number of full time employees actually working at the time of calculation. Thus, no assumptions are made regarding staffing levels.

Finally, a number of commenters claim that the Commission should not use an agency-wide figure for determining its direct costs. Instead, they maintain that the Commission should determine fees based on the salary of only those employees processing particular filings. As permitted under the requirements of Budget Circular A-25, the Commission's accounting system employs an agency-wide figure so the Commission is entitled to use an agency-wide figure as the basis for its costs.

D. Actual Fees Established and Procedure for Updating Fees

The following table summarizes for 1983 the total number of work-months, completions, and average cost per completion in rendering the services for which the Commission is establishing fees in this final rule. (FOIA search fees are subject to a different methodology, as discussed below).

[17] Updated data sheets have been placed in the Commission's Public File Room detailing the calculations.

[18] Budget Circular A-25, at 3.

Service	Total WM's in 1983	Total completions in 1983	Average number WM's per completion in 1983	Average cost per completion in 1983
Interpretations by Office of Chief Accountant	26.02	653	.04	$190.82
Petitions for issuance of declaratory orders (except under Part I of FPA)	129.87	50	2.59	12,356.03
Review of DOE denials of adjustments	39.76	20	1.98	9,445.92
Review of DOE remedial orders	36.1	23	1.57	7,489.95

The Commission believes that the average cost per completion for petitions for issuance of declaratory orders, review of DOE denials of adjustments, and review of DOE remedial orders is such that to recover these costs fully would substantially discourage the use of these services. In addition, these services may be requested by a broad spectrum of regulated entities, and there are a substantial number of small businesses and other organizations within this class. In keeping with its obligation to consider inequitable burdens on small entities and as a matter of administrative fairness, the Commission believes that a categorical reduction for each of these three categories of general activities is in the best interest of the public and of the Commission. The categorical reductions are policy judgments by the Commission representing its best estimate of the magnitude of reduction that may be necessary to avoid discouraging the use of these services. It is possible that higher percentages could be necessary, but more experience under this fee structure is needed before that judgment can be made. Accordingly, the fees for each of these services have been reduced by approximately sixty percent. The issue of categorical fee reductions is discussed generally in section III.E.1 below.

In addition, the Commission is particularly concerned with the inequitable burden on small entities from seeking review of DOE denials of adjustments and DOE remedial orders. Consequently, these two fees have been categorically reduced further when the amounts in controversy are below $30,000. Specifically, if the amount in controversy is $10,000–$29,999 then the fee is $600. Similarly, if the amount in controversy is less than $10,000, then the fee is $100. The Commission believes these additional fee reductions will prevent inequities and undue burdens on small entities that, by their size, generally have lesser amounts in controversy.

The following fees are therefore established:[19]

Services	Fee
Interpretations by Office of Chief Accountant	$100
Petitions for issuance of declaratory orders (except under Part I of the FPA)	4,900
Review of DOE denials of adjustments	
Amount in controversy:	
$0 to $9,999	100
$10,000 to $29,999	600
$30,000 or above	3,700
Review of DOE remedial orders	
Amount in controversy:	
$0 to $9,999	100
$10,000 to $29,999	600
$30,000 or above	2,900

The Commission will update its fees under Part 381 each year to reflect the most current Commission costs. An updated fee schedule will be published annually in the **Federal Register** after the close of the preceding fiscal year. The updated fees will be based on actual completions, work-months, and costs from the preceding fiscal year. In this way, the fees will reflect, using the most current data available, the benefits to the recipients.

The NOPR also stated that the Commission's fees under the Freedom of Information Act (FOIA), 5 U.S.C. 552 (1982), would also be updated annually based on these procedures. However, only the direct cost for search and duplication of documents may be recovered under FOIA.[20] Specifically, the fees for FOIA requests under the Commission's regulations, 18 CFR 3.8(k) (1983), are based on the average cost for professional employees (GS–10 or above) and clerical employees (GS–9 or below) and the average cost of duplication. So, the Commission will update FOIA fees each year based on the average cost per quarter hour of professional employees, and clerical employees, and the average cost of agency record duplication for the previous fiscal year, as required by the FOIA. The Executive Director will publish the updated fees in the **Federal Register.**

Based on this methodology, this rule updates the FOIA fees based on fiscal year 1983 costs. Those fees are set at (1) $5.60 per quarter hour for search services performed by a professional employee; and (2) $2.40 per quarter hour for search services performed by a clerical employee. The fees for duplication are unchanged.

E. Exceptions to Full Cost Recovery

1. Reductions in Fee Amounts by Category

The Commission has established in this rule a certain fee which includes all the recoverable costs associated with the particular benefits and services provided, and has categorically reduced other fees. The Commission, based on its expertise, recognizes that there may continue to be instances in which establishing full cost recovery fees would have an adverse effect on applicants, or would undermine Commission activities. In such cases, the Commission may again exercise its discretion to reduce fees to less than full cost recovery in order to prevent a disproportionate economic impact or for other good cause. Good cause would include situations where the Commission wishes to encourage use of a service, where less Commission time is required than staff time, or where there is a reduction in the amount of time required to process a filing. Any new reduction in a fee would be initiated only by the Commission by rulemaking. The same percentage of reduction will carry over to subsequent years for any categorical reduction unless further notice is given that the Commission is altering that reduction.

Commenters argue that the Commission needs more specific guidelines in this area, particularly to include undue economic hardship as a standard. The Commission believes that the standards enumerated are sufficiently specific, particularly since any categorical reductions in fee amounts is done in the context of a rulemaking. Moreover, any determination on whether to establish a fee at less than full cost recovery amount takes into account economic hardship, as discussed above, if it applies to a class of applicants. This is to be distinguished from the situation where an individual applicant can demonstrate severe economic hardship and qualify for a waiver, as discussed below.

2. Case-by-Case Waiver Procedure

The Commission also realizes that a different situation could arise in which a person is unable to pay fees as set by the Commission due to severe economic

[19] Fees are established by taking actual costs and rounding down to:

(1) The nearest $5 increment, if the total cost is $100 or less; and

(2) The nearest $100 increment, if the total cost is more than $100.

[20] 5 U.S.C. 552(a)(4)(A) (1982). *See* Final Rule, Fees Relating to Freedom of Information Act Requests, 47 FR 23148 (May 27, 1982); 47 FR 24961 (June 8, 1982) (Docket No. RM81–40–000).

hardship. If a person is suffering from a period of severe economic hardship, he will have the burden of presenting evidence to the Commission, such as a financial statement, showing that he is either economically unable to pay the fee or that, if he does the pay the fee, it will place him in a state of financial distress or emergency. As stated by the D.C. Circuit:

> The applicant for waiver must articulate a specific pleading, and adduce concrete support, preferably documentary.[21]

This material must be included with the petition for waiver at the time of filing. The Commission, or its designee, will analyze petitions for waiver to determine whether the standards for waiver have been met. The Commission will notify the petitioner as to whether the petition for waiver has been denied or accepted.

3. Exempt Classes

One commenter asserts that States and municipalities are exempt from fees collected under IOAA. The Commission agrees when a State or municipality uses a Commission service to serve the general public,[22] but this may not be the case every time the Commission acts upon a filng from a State or municipality. However, because of the large administrative burden involved in trying to segregate which services and benefits rendered to States and municipalities could be subject to fees, the Commission has decided to exempt States and municipalities from fees collected under the IOAA. The IOAA also exempts any person engaged in the transaction of official business of the Federal government. So, the Commission has provided an exemption for this situation as well.

The Commission is permitted under section 10(e) of the FPA to assess licensees an annual charge for the purpose of reimbursing the United States for the cost of administering Part I of the FPA. Consequently, the Commission has decided to make petitions for the issuance of declaratory orders that solely concern matters under Part I of the FPA exempt from the fee normally charged for declaratory orders because these costs will be used to determine the annual charges assessed to licensees. A petitioner should file a petition for exemption that summarizes the issues raised in its petition for issuance of a declaratory order and explains why the exemption is applicable. If the petition is denied, the petitioner will have 30 days from the date of notification of the denial to submit the appropriate fee to the Commission. The Commission will not use the time spent processing petitions for which a fee has been paid to calculate annual charges.

F. Procedures for Paying Fees

The Commission's notice states that fees must be submitted by certified check, made payable to the United States Treasury. A number of commenters argue that there is no reason to require certified checks. They state that a corporate check should be sufficient.

The Commission has decided to delete the certified check requirement. However, a check made payable to the United States Treasury must still be included with the filing or application unless a petition for waiver or exemption is submitted in lieu of the fee. The check must indicate for what the fee is being submitted, *e.g.*, review of a Department of Energy remedial order. This may be written on the bottom of the check. If the filing or application is not accompanied by either the appropriate fee or a petition for waiver or exemption, it will be considered deficient and will not be processed.

Commenters complain of the Commission's decision to exclude the possibility of fee refunds. They argue that the Commission should include a provision in the final rule whereby a person could receive a refund if his filing was rejected on grounds other than nonpayment of fees, or if the Commission did not respond within a reasonable amount of time. One commenter also argues that the Commission must provide for refunds so that Commission business can continue while the proposed fees are undergoing judicial review.

The Commission's decision not to allow refunds is consistent with the policy behind the IOAA. That statute authorizes and orders Government agencies to become self-sustaining to the extent possible. To do so, the agency is to collect fees for services and benefits it provides. The Congress gave this commission the duty of carrying out functions under a number of statutes. These functions are the basis of the services for which the IOAA authorizes the collection of fees. These services are performed by reviewing the petition, application or answer, not guaranteeing the issuance of a declaratory order, interpretation, or order. The Commission reviews every petition, request, or answer. Some petitions and requests are accepted, some are not, but the vast majority are accepted. The Commission's fees cover the time and cost of providing these services. It does not cost the Commission any less when it rejects a petition or request or upholds an action by DOE.

In addition, the Commission's decision not to allow refunds is consistent with its current policy of no refunds of fees charged for services in other areas of Commission activity and of annual charges under the FPA.

G. Direct Billing

The methodology used to establish the fees in this rule is based on the actual time of processing filings and the actual agency-wide costs involved with this processing. The Commission takes the actual work-months associated with a class of docketed activity and divides it by the number of completions in that class to arrive at an average number of work-months per completion. That figure is then multiplied by the average cost per work-month to arrive at the fee.

However, the Commission occasionally receives filings which are not average. These filings may be extensive in scope and present factual, legal, or policy issues of such complexity that the Commission may devote an extraordinary amount of time and effort to processing them. The standard fees established in this rule bear no reasonable relationship to the actual cost of processing those extraordinay filings. Moreover, if the costs of processing extraordinay filings are included in the costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. So, in the case of an extraordinary filing, the Commission reserves the option of ordering a direct billing procedure when the processing of the filing begins, or at any time up to one year after receiving a complete filing.

Under the direct billing procedure, the Commission will periodically bill the entity that submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing, unless a lesser amount is determined to be fair and equitable. If the decision to bill a lesser amount is based upon the presence of intervenors in a proceeding, the Commission is retaining the discretion to determine whether some of the costs not directly billed to an applicant should instead by billed to the intervenors. The Commission doubts this will occur frequently since intervention usually does not occur in the general activities covered by this final rule or, if it does, the intervenors are raising issues oriented toward protecting the public interest as opposed

[21] United Gas Pipe Line Company v. FERC, 707 F.2d 1507, 1511 (D.C. Cir. 1983).

[22] Beaver, Bountiful, Enterprise v. Andrus, 637 F.2d 749 (10th Cir. 1980).

to a private interest. Any decision to directly bill intervenors will be made on a case-by-case basis.

Commenters state that the direct billing procedure is entirely too vague. These commenters object to this direct billing method because they claim that the complexity of a filing might result simply from the participation of intervenors, that it is impossible to know beforehand if a matter will be complex, and that a proceeding may be complex because it contains important public policy issues where the potential benefit to the applicant is secondary to that of the public or to other industry members. A suggestion has been made that if the Commission does require direct billings in complex cases, it should allocate the fees among the intervenors as well as the applicant since the intervenors receive the same benefit as the original applicant. The Commission recognizes the points made by these commenters. Consequently, the possible allocation of some costs to intervenors in direct billing situations will be handled on a case-by-case basis.

Also, a commenter requests that the Commission itemize all direct billings so that there will be a means of appealing the billed amount. Finally, one commenter suggests that, in the case of unsuccessful staff contests of filings, there be no additional direct billing costs. Where there is a direct billing, the Commission will itemize, to the best degree of accuracy under the MIS, the costs involved in the direct billing. There is no way the Commission can estimate in advance what the costs will be, but once the party is advised that direct billing will be used, it can then decide whether or not to pursue the matter. In addition, the staff resources devoted to processing a filing resulting in a direct billing will be separately recorded and will not be included in the work-months associated with processing average filings. Moreover, the Commission will credit a person whose filing becomes subject to direct billing with any fee paid under this fee system.

IV. Summary of Final Rule

This final rule establishes fees for services and benefits provided by the Commission in new Part 381 of Chapter 1, Title 18 of the Code of Federal Regulations.

Section 3.8 is amended to update search fees to $5.60 per quarter hour for professional employees and $2.40 per quarter hour for clerical employees. The fees for duplication are unchanged.

Section 381.301 establishes a $100.00 fee payable upon the submission of a written request for an interpretation by the Office of Chief Accountant.

Section 381.302 establishes a $4,900 fee payable upon submission of a petition for a declaratory order.

Section 381.303 establishes fees ranging from $100 to $2,900 based on the amount in controversy. These fees are payable upon filing of an answer in a proceeding to review DOE remedial orders.[23]

Section 381.304 establishes fees ranging from $100 to $3,700 based on the amount in controversy. These fees are payable upon the filing of a petition for review of a DOE denial of an adjustment request.

In addition, this rule makes a number of technical, conforming amendments to the Commission's regulations. These conforming amendments: (1) Provide the appropriate delegations to Commission staff to implement the procedures for waiving fees, updating fees, and exempting persons; (2) address the above-mentioned categories of service; and (3) ensure that the requirement that the proper fees are filed with each request, petition, or appeal (except FOIA requests) is clearly stated in the appropriate sections of Parts 3 and 385. In addition, section 3.8(k) requires the publication of an updated fee schedule each year for Freedom of Information Act requests to reflect the most current Commission costs.

V. Final Regulatory Flexibility Analysis

When an agency promulgates a final rule under the Administrative Procedure Act (APA), 5 U.S.C. 553 (1982), after being required by that section or any other law to publish a notice of proposed rulemaking, a final regulatory flexibility analysis may be appropriate under the Regulatory Flexibility Act of 1980. Each final regulatory flexibility analysis must contain (1) a statement of need for and objective of the rule, (2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of significant alternatives to the rule consistent with the stated objectives of the applicable statute which the agency considered and ultimately rejected.

In this preamble, the Commission has already detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes a schedule of fees to be paid to the Commission for certain benefits it provides, in accordance with the IOAA and Budget Circular A-25.

During the past year, approximately 54 petitions for declaratory orders, 653 requests for interpretations of the Uniform Systems of Accounts, 17 requests for review of DOE remedial orders, and 13 requests for review of DOE denials of adjustments were filed with (as distinct from completed by) the Commission. These requests, petitions, and answers have been submitted by all types of entities, some of which are regulated by the Commission and some of which are not.

The Small Business Administration's (SBA) regulations do not establish specific size standards for each of the entities regulated by the Commission that would be subject to this rule.[24] Most natural gas and oil pipelines and electric utilities are large businesses, yet a portion of this group would probably be considered small. A greater number of natural gas producers and hydroelectric facility licensees, however, might be classified as small businesses. In addition, within the class of individuals and entities not regulated by the Commission but which could be expected to seek the services covered by this proposal, there may be many small businesses. For instance, this proposal will also affect those individuals and entities which seek Commission review of DOE denials of adjustments and DOE remedial orders. These entities include retailers, resellers, refiners, and oil producers and within these various classes of entities, the Commission believes there may be some small businesses. Therefore, the Commission believes this rule may have an economic impact on a certain, but not necessarily substantial, number of small entities, primarily natural gas producers, hydroelectric licensees, and permittees, retailers, resellers, and oil and gas refiners.

Where a rule will have a significant economic impact on a substantial number of small entities, section 604(a)(3) of the RFA requires the Commmission to discuss significant alternatives to the proposal. The Commission has already fully detailed its attempt to minimize and disproportionate burden the proposal would have on a small entity. For example, the fees for petitions for issuance of a declaratory order, review of DOE denials of adjustments, and

[23] The fee accompanies an answer because the proceeding may be initiated by a filing with the Secretary of Energy. *See* 18 CFR 385.904 (1983).

[24] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also* SBA's revised Small Business Size Standards, 49 FR 5024 (Feb. 9, 1984) (to be codified at 13 CFR part 121).

review of DOE remedial order have been categorically reduced by approximately sixty percent to avoid discouraging use of these services, particularly by smaller entities. In addition, the fees for review of DOE denials of adjustments and DOE remedial orders have been further reduced when the amount in controversy is below $30,000. This additional tiered system of reductions is expected to ease any undue burden on small entities. The rule also contains a provision for individual waiver of those fees to further protect any individuals or entities from economic hardship. The Commission could, of course, consider reducing the fees further, or even eliminating the fees, with respect to small businesses. However, in proposing the present fee schedule, the Commission is also attempting to satisfy the statutory directive of the IOAA to be "self-sustaining to the extent possible." The Commission believes the rule, as adopted, represents a fair balance which will satisfy the purposes of both the IOAA and the FRA.

Three commenters discuss the Initial Regulatory Flexibility Analysis. Two commenters argue that the Commission's analysis is inadequate, and that the Commission did not consider the possibility of not imposing fees. Another commenter complains that the effects on non-profit public interest organizations are not discussed.

The Commission believes it followed the requirements of the Regulatory Flexibility Act in its notice of proposed rulemaking and in this final rule. Further, while the Commission has operated for a long time without charging fees for these categories of services, its adoption of this fee schedule is authorized by statute.

Paperwork Reduction Act Statement and Effective Date

The information collection provisions of this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR Part 1320 (1984). OMB issued Control Number 19020132 for these sections. Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Joseph Hartsoe (202) 357–8033). This rule will become effective October 9, 1984.

List of Subjects

18 CFR Part 3

Organization, Operation, Information and requests.

18 CFR Part 375

The Commission.

18 CFR Part 381

General fees.

18 CFR Part 385

Rules of practice and procedure.

19 CFR Part 389

Paperwork Reduction Act, OMB control numbers.

In consideration of the foregoing, the Commission is amending Parts 3, 375, 381, 385, and 389 of Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 3—[AMENDED]

1. Part 3 is amended as follows:

a. The authority citation for 18 CFR Part 3 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 552 and 553 (1982), unless otherwise noted.

b. In § 3.8(k)(2)(i), by removing the number "$5.75" and adding, in its place, the number "$5.60";

c. In § 3.8(k)(2)(ii), by removing the number "$2.50" and adding, in its place, the number "$2.40"; and

d. By adding a sentence at the end of paragraph (h) and by adding a new paragraph (k)(7) to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(h) * * * Each inquiry directed to the Chief Accountant that requires a written response must be accompanied by the fee prescribed by § 381.301 of this chapter.

* * * * *

(k) *Fees for Freedom of Information Act requests.*

* * * * *

(7) *Annual adjustment of fees*—(i) *Update and publication.* The Commission, by its designee the Executive Director, will update the fees established in this section each fiscal year according to the formula in paragraph (k)(7)(iii) of this section. The Executive Director will publish the fees in the **Federal Register.**

(ii) *Payment of updated fees.* The fee applicable to a particular Freedom of Information Act request will be the fee in effect on the date that the request is received for purposes of section 388.107, 18 CFR 388.107 (FOIA timetables and procedures).

(iii) *Formula.* The fee for each quarter-hour of professional employee search time will be the approximate average hourly cost (including the cost of fringe benefits) to the Commission for professional employees (GS–10 or above) for the previous fiscal year. The fee for each quarter hour of clerical employee search time will be the approximate quarter-hour cost (including the cost of fringe benefits) for clerical employees (GS–9 or below) for the previous fiscal year. Duplication costs will be determined by estimating the cost to copy each type of agency record, and will be based on the cost of supplies used and the machine leased.

(iv) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the **Federal Register,** unless otherwise specified in the **Federal Register** notice.

PART 375—[AMENDED]

2. Part 375 is amended as follows:

a. The authority citation for Part 375 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1982).

b. In § 375.303, by adding a new paragraph (g) to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(g) Deny or grant, in whole or in part, petitions for waivers of fees prescribed in § 381.301 of this chapter in accordance with § 381.106(b) of this chapter.

c. In § 375.310, by adding a new paragraph (b) to read as follows:

§ 375.310 Delegations to the Director of the Office of Opinions and Review.

* * * * *

(b) Deny or grant, in whole or in part, petitions for waivers of fees prescribed in §§ 381.303 and 381.304 of this chapter in accordance with § 381.106(b) of this chapter.

d. By revising § 375.313 to read as follows:

§ 375.313 Delegations to the Executive Director.

The Commission authorizes the Executive Director or the Executive Director's designee to:

(a) Prescribe the updated fees for Part 381 of this chapter in accordance with § 381.104 of this chapter.

(b) Prescribe the updated fees for Part 381 of this chapter in accordance with § 3.8(k)(7) of this chapter.

(c) Deny or grant, in whole or in part, petitions for waiver of fees prescribed in § 381.302 of this chapter in accordance with § 381.106(b) of this chapter.

(d) Deny or grant, in whole or in part, petitions for exemption from fees prescribed in Part 381 of this chapter in accordance with § 381.108 of this chapter.

e. In § 375.314, by adding a new paragraph (gg) to read as follows:

§ 375.314 Delegations to the Director of the Office of Hydropower Licensing.

* * * * *

(gg) Deny or grant, in whole or in part, petitions for exemption from the fee for declaratory order petitions prescribed in § 381.302(a) of this chapter in accordance with § 381.302(c) of this chapter.

PART 381—[AMENDED]

e. Part 381 is amended as follows:

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

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12009, 3 CFR 142 (1978); Independent Offices Appropriation Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

§ 381.106 [Amended]

b. In § 381.106(a), by removing the words "submit a" in the first sentence and adding, in their place, the words "submit an original and two copies of a";

c. By adding a new § 381.108 to Subpart A, General Provisions, to read as follows:

§ 381.108 Exemptions.

(a) *Filing of Petition.* States, municipalities and anyone who is engaged in the official business of the Federal government are exempt from the fees required by this part and may file a petition for exemption in lieu of the applicable fee.

(b) *Decision on petition.* A petitioner may claim this exemption by filing an original and two copies of a petition for exemption that includes evidence that the petitioner is a State or municipality, or is engaged in the official business of the Federal government. The Commission or its designee will analyze each petition to determine whether the petition has met the standards for exemption and will notify the petitioner whether it is granted or denied. If the petition is denied, the person will have thirty days from the date of notification of the denial to submit the appropriate fee to the Commission.

d. By adding a new Subpart C to read as follows:

Subpart C—Fees Applicable to General Activities

Sec.

Subpart C—Fees Applicable to General Activities

§ 381.301 Request for interpretation by the Office of Chief Accountant.

The fee established for a request for an interpretation by the Chief Accountant under § 3.8 of the Commission Rules of Practice and Procedure, 18 CFR 3.8 (1983), that requires a written response is $100. The fee must be submitted in accordance with Subpart A of this part.

§ 381.302 Petition for issuance of a declaratory order (except under part I of the Federal Power Act).

(a) Except as provided in § 381.302(b), the fee established for filing a petition for issuance of a declaratory order under § 385.207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207 (1983), is $4,900. The fee must be submitted in accordance with Subpart A of this part.

(b) No fee is necessary to file a petition for issuance of a declaratory order that solely concerns the investigation, issuance, transfer, renewal, revocation, and enforcement of licenses and permits for the construction, operation, and maintenance of dams, water conduits, reservoirs, powerhouses, transmission lines, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under Part I of the Federal Power Act.

(c) A person claiming the exemption provided in paragraph (b) of this section must file an original and two copies of a petition for exemption in lieu of a fee along with its petition for issuance of a declaratory order. The petition for exemption should summarize the issues raised in the petition for issuance of a declaratory order and explain why the exemption is applicable. The Commission or its designee will analyze each petition to determine whether the petition has met the standards for exemption and will notify the applicant whether it is granted or denied. If the petition is denied, the petitioner will have thirty days from the date of notification of the denial to submit the appropriate fee to the Commission.

§ 381.303 Review of a Department of Energy remedial order.

(a) *Except as provided § 381.303(b),* the fee established for filing a petition for review of a Department of Energy remedial order under Subpart I of the Commission's Rules of Practice and Procedure, 18 CFR Part 385, Subpart I (1983), is $2,900. The fee must be submitted in accordance with Subpart A of this part.

(b) If the amount in controversy is below $30,000, then the fee to file a petition for review of a DOE remedial order is reduced as follows:

	Fee
Amount in controversy:	
$0 to $9,999	$100
$10,000 to $29,999	600

(c) In order to qualify for the fees in paragraph (b) of this section, the check must be accompanied by an affidavit by the petitioner that states the amount in controversy.

§ 381.304 Review of a Department of Energy denial of adjustment.

(a) *Except as provided in § 381.304(b),* the fee established for review of a Department of Energy denial of an adjustment request under Subpart J of the Commission's Rules of Practice and Procedure, 18 CFR Part 385, Subpart J (1983), is $3,700. The fee must be submitted in accordance with Subpart A of this part.

(b) If the amount in controversy is below $30,000, then the fee to file a petition for review of a DOE denial of an adjustment is reduced as follows:

	Fee
Amount in controversy:	
$0 to $9,999	$100
$10,000 to $29,999	600

(c) In order to qualify for the fees in paragraph (b) of this section, the check must be accompanied by an affidavit by the petitioner that states the amount in controversy.

PART 385—[AMENDED]

4. Part 385 is amended as follows:

a. The authority citation for Part 385 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

b. In § 385.207, by adding a new paragraph (c) to read as follows:

§ 385.207 Petitions (Rule 207).

* * * * *

(c) Except as provided in § 381.302(b), each petition for issuance of a declaratory order must be accompanied by the fee prescribed in § 381.302(a).

c. In § 385.906, by adding a new sentence at the end of paragraph (b)(1) to read as follows:

§ 385.906 Pleadings (Rule 906).

* * * * *

(b) *By the petitioner.* (1) * * * Each answer filed with the Secretary of the Commission by the petitioner, in accordance with this paragraph, must be accompanied by the fee prescribed by § 381.303 of this chapter.

* * * * *

d. By amending § 385.1004 as follows:

a. In paragraph (c), by adding the words "and the fee required by paragraph (c) of this section" following the words "petition for review"; and then redesignating paragraph (c) as paragraph (d).

b. By adding a new paragraph (c) to read as follows:

§ 385.1004 Commencement of proceedings (Rule 1004).

* * * * *

(c) Each petition for review filed with the Secretary of the Commission must be accompanied by the fee prescribed by § 381.304 of this chapter.

* * * * *

PART 389—[AMENDED]

5. Part 389 is amended as follows:

a. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

b. The Table of OMB Control Numbers in § 389.101(b) is amended by adding "381.108" in the numerical order in the Section column, and "0132" in the corresponding position in the OMB Control Number Column.

c. The Table of OMB Control Numbers in § 389.101(b) is further amended by adding "381.302" in the numerical order in the Section column, and "0132" in the corresponding position in the OMB Control Number Column.

d. The Table of OMB Control Numbers in § 389.101(b) is amended by adding "381.303" in the numerical order in the Section column, and "0132" in the corresponding position in the OMB Control Number Column.

e. The Table of OMB Control Numbers in § 389.101(b) is further amended by adding "381.304" in the numerical order in the Section column, and "0132" in the corresponding position in the OMB Control Number Column.

[FR Doc. 84-23569 Filed 9-6-84; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Parts 157, 274, 284, 375, 381, and 385

[Docket No. RM82-30-000; Order No. 394]

Fees Applicable to the Natural Gas Policy Act

Issued: August 31, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to establish fees for services and benefits it provides under the Natural Gas Policy Act. The rule establishes fees for applications for adjustment under the NGPA, Commission review of well-category determinations by jurisdictional agencies, reports for transactions authorized under Title III of the NGPA, and requests for interpretation of the NGPA from the Office of the General Counsel. These fees are authorized by the Independent Offices Appropriations Act, which provides for the collection of fees to make agencies self-sustaining to the extent possible.

EFFECTIVE DATE: This rule will become effective October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Fred A. Wolgel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III.

I. Introduction

By this rule, the Federal Energy Regulatory Commission (Commission) amends Part 381 of its regulations to establish fees for services and benefits provided under the Natural Gas Policy Act (NGPA).[1] In an earlier rulemaking, the Commission adopted its basic methodology for establishing fees with respect to services and benefits provided by the Commission, as well as the procedures for billing, collecting, waiving, and updating fees.[2] This rule applies the basic methodology to establish the following fees:

(1) Application for adjustment under section 502(c) of the NGPA, including exemptions from incremental pricing under section 206(d) of the NGPA, $6,000;

(2) Commission review of a jurisdictional agency determination, $25;

(3) Petition for approval of rates and charges for transportation of natural gas under 18 CFR 284.123(b)(2), $2,000;

(4) Initial or extension reports filed in accordance with 18 CFR 284.106, 284.126, 284.148 and 284.163 for transactions authorized under Title III of the NGPA, $800; and

(5) Request for interpretation of the NGPA by the Office of the General Counsel, $1,200.

II. Background

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for services and benefits it provides.[3] The principal interpretation of the IOAA is Bureau of the Budget Circular A–25,[4] which states that a fee should be assessed for each measurable unit or amount of government service or property from which an identifiable recipient derives a special benefit.

In accordance with the IOAA and authoritative interpretations of that

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[1] 15 U.S.C. 3301–3432 (1982).

[2] Final Rule, Fees Applicable to Producer Matters under the Natural Gas Act, 49 FR 5074 (Feb. 10 1984) (Docket No. RM 82–25–000), *reh'g denied and rule clarified*, 49 FR 17435 (Apr. 24, 1984), *appeal pending*, No. 84–1846 (10th Cir. June 2, 1984).

[3] Act of Aug. 31, 1951, Ch. 376, Title V, Section 501, 65 Stat. 290, *as codified*, 31 U.S.C. 9701 (1982).

[4] Bureau of the Budget Circular A–25 (Sept. 23, 1959). This interpretation has been cited by the United States Supreme Court as "the proper construction of the Act." FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

statute,[5] the Commission, is establishing any fee, must:

(a) Identify the service for which the fee is to be assessed;

(b) Explain why the particular service benefits an identifiable recipient more than it benefits the general public;

(c) Base the fee on as small a category of service as practical;

(d) Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered to the beneficiary; and

(e) Set a fair and equitable fee for the service.

For the reasons detailed below, the Commission believes that the fees set forth in this final rule meet these requirements.

III. Summary and Analysis of Comments

On June 2, 1982, the Commission issued its notice of proposed rulemaking (NOPR) in this docket.[6] The NOPR proposed fees for certain services and benefits provided under the NGPA. As indicated above, this final rule establishes fees for the following services and benefits provided under the NGPA:

(1) Adjustments requested under section 502(c) of the NGPA, including exemptions from incremental pricing under section 206(d), and filed in accordance with Subpart K of 18 CFR Part 385;

(2) Review of jurisdictional agency determinations under section 503 of the NGPA filed in accordance with 18 CFR 274.104;

(3) Approval of rates and charges for transportation of natural gas under 18 CFR 284.123(b)(2);

(4) Review of initial or extension reports filed in accordance with 18 CFR 284.106, 284.126, 284.148, and 284.163 for transactions authorized under Title III of the NGPA; and

(5) Interpretations of the NGPA rendered by the Office of the General Counsel, requested in accordance with 18 CFR Part 1901.

[5] *See Nat'l Cable Television Ass'n Inc.* v. *United States*, 415 U.S. 336 (1974); *FPC* v. *New England Power Co.*, 415 U.S. 345 (1974); *Mississippi Power & Light Co.* v. *NRC*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980); *Nat'l Cable Television Ass'n Inc.* v. *FCC*, 554 F.2d 1094 (D.C. Cir. 1976); *Electronic Indus. Ass'n* v. *FCC*, 554 F.2d 1109 (D.C. Cir. 1976); *Nat'l Ass'n of Broadcasters*, v. *FCC*, F.2d 1118 (D.C. Cir. 1976); *Capital Cities Communications, Inc.* v. *FCC*, 554 F.2d 1135 (D.C. Cir. 1976).

[6] Fees Applicable to the Natural Gas Policy Act, 47 FR 24736 (June 8, 1982). The Commission received fifty-five comments in response to the NOPR.

A. Identification of Services

Under section 502(c) of the NGPA, the Commission has established rules for the making of such adjustments as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules governing applications for adjustment are set forth in Subpart K of 18 CFR Part 385 of the Commission's regulations. Under § 385.1104(a), an applicant must show, among other things, "how the denial of relief will cause the applicant to suffer special hardship, inequity, or unfair distribution of burdens." These adjustment procedures enable an applicant to obtain relief from an order or rule issued by the Commission that implements the requirements of the NGPA. The category of adjustments include the granting of exemptions under section 206(d), in whole or in part, from incremental pricing.

Federal and state "jurisdictional agency" determinations under section 503 of the NGPA establish the NGPA maximum lawful price applicable to the sale of natural gas from particular wells. If producers wish to sell gas at the prices authorized by sections 102, 103, 107 and 108 of the NGPA, they must submit an application to the jurisdictional agency for a well-category determination. The Commission reviews the initial determination made by the jurisdictional agency. If the Commission does not reverse the jurisdictional agency's determination, the producer is allowed to receive the applicable maximum lawful price. As a practical matter, that price may be higher than the price the producer could have obtained in the absence of the determination.

Under sections 311 and 312 in Title III of the NGPA, the Commission authorizes several types of transactions on a self-implementing basis without subjecting these transactions to the Commission's jurisdiction under the Natural Gas Act (NGA). These types of transactions include: (1) Transportation of natural gas by an interstate pipeline on behalf of any intrastate pipeline or local distribution company for a period up to two years; (2) sale or transportation of gas by an intrastate pipeline to, or on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline for a period of up to two years; and (3) assignment of an intrastate pipeline's contractual right to receive surplus gas to any interstate pipeline or local distribution company. Pipelines benefit from this program by being able to carry on the designated transactions without the need for prior Commission approval. However, pipelines that utilize the program and engage in these specific transactions are required to submit reports as specified in Part 284 of the Commission's regulations describing which transactions have been undertaken.[7]

Under § 385.1901 of the Commission's regulations, the Office of the General Counsel provides, at the request of any person, interpretations of the NGPA. The information and analysis provide guidance that may be used by the recipient to assist its decision making and planning of transactions or activities affected by the NGPA.

As proposed in the NOPR, the Commission has decided not to establish fees for certain other actions it takes relating to the NGPA. These actions include preliminary and formal enforcement investigations, Commission enforcement-related settlements and administrative litigation, news releases, and litigation in the courts. The Commission believes that these actions generally do not manifest the necessary identifiable benefit to an individual entity.

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge fees under the terms of the IOAA, Budget Circular A-25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[8] In addition, the Circular states that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values than those which accrue to the general public."[9]

Many commenters argue that the benefits under the proposed rules inure primarily to the public or to consumers. Commenters claim that no special benefit is conferred on an identifiable recipient, as is required by the IOAA. Some commenters argue that it is unfair to charge a fee for complying with the regulations and that the purpose of obtaining an interpretation is to avoid a penalty, not to receive a special benefit.

While consumers may be ultimate beneficiaries from the regulation of natural gas under the NGPA, that is not determinative of the Commission's right to charge fees under the IOAA. The IOAA provides for the collection of fees for a "service or thing of value provided by the agency.[10] Commission review of

[7] *See* 18 CFR 284.106, 284.126, 284.148.

[8] Budget Circular A-25, at 1-2.

[9] *Id.* at 2.

[10] 31 U.S.C. 9701 (1982). This phrase was changed in 1982 from "any work, service, publication, report,

Continued

requests for adjustments under, or interpretations of, the NGPA and Commission regulations and review of well category determinations and Title III transactions are the types of services for which the IOAA contemplates the collection of fees. The Court of Appeals for the D.C. Circuit has held that a fee otherwise authorized is not rendered invalid even where the benefit to the public is greater than the benefit to the applicant.[11] The court also held that an agency is entitled to charge a fee for services which assist a person in complying with a statute.[12]

Commenters also assert that it is unfair to impose fees on entities that are suffering hardship and are seeking relief therefrom. One commenter asserts that it is illegal to do so. Another commenter argues that the fee will foreclose use of the "safety value" established in section 502(c) of the NGPA. The Commission disagrees with these assertions. The case-by-case waiver procedures in 18 CFR 381.106 should adequately protect those entities from suffering economic hardship as a result of the filing fees imposed.

C. Smallest Practical Unit

In designing a fee schedule, the IOAA requires the Commission to base fees on the smallest unit or category of service that is practical. The Court of Appeals for the D.C. Circuit set forth the general rule:

> * * * [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be classes of carriers or applicants or grantees of services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.[13]

Further, Budget Circular A–25 states that "costs shall be determined or established from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose."[14]

The Commission, in keeping with Budget Circular A–25, is classifying its fees by types of applications or filings, which are the smallest practical unit. The Commission has calculated its fees from its Management Information Systems (MIS). The MIS is an agency system established to track workload. The MIS tracks time, by work-months, based on types of applications or proceedings. The Commission is establishing one fee for an entire filing or proceeding because that filing or proceeding is the smallest unit practical for the Commission to develop fees.[15] In the NOPR in this docket, the Commission stated that it anticipated establishing two separate fee categories for initial Title III reports and for extension reports under Title III. After calculating the time spent on these two areas and the resulting fees, the Commission has found the fees to be so nearly identical that, for logical and administrative efficiency reasons, only one fee category for both activities is being established.

However, the Commission has also determined that the time spent on processing one type of Title III application differs significantly from the time spent on all other Title III activities. These applications involve the transportation of gas by intrastate pipelines on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline under 18 CFR 284.123(b)(2). Under § 284.123(b)(1), an intrastate pipeline in certain circumstances may elect to use a rate methodology already on file with the appropriate state public utility commission (PUC), and such rates are presumed to be fair and equitable. Alternatively, under § 284.123(b)(2), an intrastate pipeline may petition the Commission for approval of its proposed rates and charges for such transportation, and file information purporting to show that the proposed rates and charges are fair and equitable. If the pipeline makes the election under § 284.123(b)(2), the Commission must establish a rate rather than simply review an existing rate on file with a state PUC. The average costs for such determinations are substantially higher than for all other transportation transactions pursuant to Title III of the Act.

Accordingly, the final rule separates out applications under § 284.123(b)(2) from other Title III activities and establishes a separate fee based on the substantially higher processing costs for these applications.

D. Basis of Cost Recovery

1. Direct and Indirect Costs Included

The Commission's fee schedule is designed to account for all types of recoverable costs associated with the processing of specified applications and filings under the Commission's jurisdictional statutes. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. The attributable costs include the direct salary costs as well as the substantial amount of indirect salary costs which the Commission expends in its reviews. As the Fifth Circuit has stated, employees

> * * * must be supplied working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that * * * [they are] hired, paid on a regular basis and provided specialized training courses. These and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application.[16]

Accordingly, the Commission has included in its identification of costs the following items: salaries and benefits; travel; transportation of things; rents; communications and utilities; printing; other support services; supplies; and equipment.

2. Methodology

(a) *Underlying Considerations.* The Commission's calculation of the costs of providing each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of the services. The fees in this rule are based on information obtained through the Commission's Management Information System (MIS), which provides the amount of time spent on all Commission functions. The functions are grouped into categories which represent the Commission's various programs,

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document, benefit, privilege, authority, or similar thing of value or utility" for consistency and to eliminate unnecessary words. H.R. Rep. No. 651, 97th Cong., 2d Sess. 226 (1982).

[11] The court discussed the FCC's implementation of language in Budget Circular A–25 that precludes fees for activities when the "identification of the ultimate beneficiary is obscure and the service can be *primarily* considered as benefitting broadly the general public" (emphasis added):

> The term "primarily" is misleading, and we reject any suggestion that the Commission should be limited to charging fees for those services where the benefit to the private party is greater than the benefit to the public; but with that word eliminated, we endorse the agency's language.

Electronics Indus. Ass'n v. *FCC*, 554 F.2d 1109, 1114 n. 12 (D.C. Cir. 1976).

[12] *Id.* at 1115.

[13] *Electronic Indus. Ass'n* v. *FCC*, *supra* note 5, at 1116–17.

[14] Budget Circular A–25, at 3.

[15] The Commission has recently updated the MIS by starting to track its workload on a new system (Time Distribution Reporting System), which may provide an even greater degree of accuracy of Commission workload. At this time, however, the Commission does not have a year's worth of complete data to develop actual fees from the new system.

[16] *Mississippi Power & Light Co.* v. *NRC*, *supra* note 5, at 232.

including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, gas producer rates, oil pipeline regulation, hydropower regulation, and electric power regulation. The MIS workload data is recorded on a monthly basis.

With respect to each function, the supervisor records for the MIS the number of projects initiated (receipts) and completed (completions) in a particular time period. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities." The supervisor in each organization unit reports to the MIS the amount of time spent by staff on each functional category in terms of work-months. A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. In addition, time sheets are coded by functional categories and are filled out Commission-wide every two weeks. Supervisors check employee time sheets for accuracy in coding.

Many non-docketed support functions are essential to the completion of any docketed activity. However, they cannot be measured in terms of receipts and completions because the nature of these functions makes it impractical to do so. Like other functions, the time spent on support activities is reported by unit supervisors in terms of work-months.

Only those support functions that are related to providing a benefit are included in the fee calculations. These support functions will be referred to as "support activities' and can be divided into three categories. First, there are support activities that involve general supervision, personnel management, and routine administrative functions. Routine administrative functions include such activities as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave. The entire cateogry is labeled as "administrative services" and is included in the fee structure because it is essential to the FERC's ability to complete docketed activities.

Second, support staff responds to requests for information that may not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies. The Commission has excluded from its calculation of fees the work-months associated with this second category of "inquiries and internal communications" because this type of support activity is not involved in completing docketed activities.

Third, support staff establishes or reviews certain Commission operations and procedures. This is "technical management and operations." These activities include work on the FERC budget, management information systems, and program development functions such as special studies or briefings on relevant subjects, but which are not identified with just one docketed activity. This category is therefore an integral part of completing docketed activities.

Support activities represent a type of indirect cost, but are channeled into the cost calculations separately from all other indirect costs (such as physical plant overhead). These other indirect costs are added together with direct costs to come up with an average monthly cost per Commission employee of $4,770.67. That figure is multiplied by the time (in work-months) taken to review a type of application. Support activities represent work-months expended which cannot be allocated directly to each individually-tracked, docketed activity. Therefore, the work-months used in the fee calculation consist both of time actually spent reviewing a particular type of application and also a pro-rata share of the time spent on support activities associated with reviewing that type of application.

(b) *Calculation of Fee Amounts.* For purposes of this rule, the Commission has used the following methodology to determine the cost of providing any service or benefit. First, the work-months reported for a class of docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities for that activity. This figure, representing the total number of work-months dedicated to a class of docketed activity for a year, is divided by the number of completions for the year for the given activity. The resulting quotient represents the average number of work-months required to complete one proceeding in that given class of docketed activity.

Second, the Commission used the following data provided by its Office of Program Management to figure the average cost of a work-month, based on the Commission's FY (Fiscal Year) 1983 actual costs.

Salaries and benefits	$46,228
(Based on year-end payroll data and benefits)	
Travel	726
Transportation of things	7
Rents, communications & utilities	3,185
Printing	1,899
Other services—excludes direct program contracts	4,684
Supplies	477
Equipment	42
Total	$57,248

The total was divided by 12 to yield an average work-month cost of $4,770.67.

Third, in order to determine the cost of an activity, the Commission multiplied the average cost per work-month by the average number of work-months required to complete the activity.[17]

Commenters provide many different reasons for why they believe that the Commission's cost methodology is either severely flawed or excessively vague. Some of these reasons include use of actual salaries from one year and the time figures from another year, use of mean work-month costs rather than the median or mode, use of only one year's data for determining fees, inadequate explanation of support costs calculations, and inclusion of costs that do not benefit an identifiable recipient or are not actually incurred by the Commission in rendering a particular service.

Several commenters claim that the Commission should not use an agency-wide figure for determining its direct costs. Instead, they maintain that the Commission should determine fees based on the average salary of only those employees processing particular filings. As permitted under Budget Circular A–25, the Commission's accounting system employs an agency-wide figure for salaries and therefore the Commission has used an agency-wide figure as the basis for its costs.

As for what costs are permissible for inclusion, the IOAA provides for the collection of fees which include both direct and indirect costs of the Government. Thus, there is no reason to exclude any item except for support functions relating to inquiries and internal communications, as discussed above. All other support activities are an integral part of completing docketed activities and therefore are included in the calculations. Second, in devising its fee schedule, the Commission is authorized to determine or estimate its costs "from the best available records in the agency." [18] For this Commission, that means the MIS.

[17] Updated data sheets are being placed in the Commission's Public File Room detailing the calculations.

[18] Budget Circular A–25, at 3.

The proposed rule used FY 1982 budgeted figures to determine its costs, and FY 1981 actual completions and work-months in the fee calculation. The method of updating the fees was tied to FY 1981 as the "base year." Each subsequent year was to be adjusted by the change in costs between the base year and the year in consideration. Under the proposed rule, the number of completions and work-months would not be changed from the FY 1981 base-year numbers. The Commission now believes it is more accurate to calculate fees from actual completions and work-months, as well as actual costs. Consistent with its other final fees rules, the Commission has decided to use actual fiscal year figures in this rule as well as in updating the fees in subsequent years (see section III.E. below). Accordingly, the Commission has calculated the fees in this rule from actual fiscal year 1983 direct and indirect costs, completions, and work-months. This approach will keep data more current. This approach also eliminates any inaccuracies which could arise from using budgeted figures. In addition, by updating completions and work-months with the most recently available data, the fees will reflect any improvements that may occur in the average number of work-months per completion.

E. Actual Fees Established and Procedure for Updating Fees

The following table summarizes for FY 1983 the total number of work-months, completions, and the average cost per completion in rendering the services for which the Commission is establishing fees in this final rule.

Service	Total WM's in 1983	Total completions in 1983	Average number WM's per completion in 1983	Average cost per completion in 1983
Adjustment under NGPA § 502(c)	127.93	35	3.65	$17,412.94
Jurisdictional agency determination	295.11	59,429	.00496	[19] 29.59
Petitions for rate approval pursuant to § 284.123(b)(2)	58.33	138	.4226	2,016.08
All other initial and extension reports under title III	135.95	804	.1690	806.24
OGC interpretations of the NGPA	35.84	47	.762	3,635.25

[19] The average cost per completion for review of jurisdictional agency determinations also includes computer costs incurred by the Energy Information Administration and reimbursed by the Commission, equivalent to approximately $5.93 per determination.

The Commission believes the costs associated with petitions for adjustment and OGC interpretations are such that to fully recover these costs through fees would substantially discourage the use of these services. In addition, these services may be requested by a broad spectrum of regulated entities, and there are a substantial number of small businesses, such as small gas producers, within this class. The Commission, therefore, has reduced the fees for requests for adjustments to $6,000. This represents a sixty percent reduction of the full-cost recovery amount plus an additional five percent reduction because the Commission itself is not normally involved in issuing any order. This total sixty-five percent reduction is the same percentage proposed in the NOPR. The fee for requests for OGC interpretations has been reduced to $1,200. This is also a sixty-five percent reduction from full-cost recovery, consistent with the Commission's reduction policy for adjustments.

These categorical reductions are policy judgments by the Commission representing its best estimate of the magnitude of reductions that may be necessary to avoid discouraging the use of these services. It is possible that higher percentages could be necessary, but more experience under this fee structure is needed before that judgment can be made. Therefore, unless subsequently modified, these same percentages of reduction from full-cost recovery will carry over to future years as costs are updated.

The following fees are therefore established: [20]

Services	Fees
Adjustments under NGPA section 502(c)	$6,000
Jurisdictional agency determination reviews	25
Petitions for rate approval pursuant to § 284.123(b)(2)	2,000
All other initial or extension reports under title III	800
OGC interpretatios of the NGPA	1,200

The Commission will update its fees under Part 381 each year to reflect the most current Commission costs. An updated fee schedule will be published annually in the **Federal Register**, after the close of the preceding fiscal year. The updated fees will be based on actual completions, work-months and costs from the preceding fiscal year. In this way, the fees will reflect, using the most current data available, the benefits to the recipients.

With regard to fees for Title III transactions, if an intrastate pipeline seeks to establish a new rate for six on-going transportation arrangements under § 284.123(b)(2), it would accompany that petition with a single $2,000 fee. In contrast, if the intrastate pipeline later seeks to extend the six transportation arrangements, a total of $4,800 (six times $800) is due. Note that the $800 fee is due for an initial full report or extension report irrespective of whether or not that transaction is subject to a § 284.123(b)(2) rate approval proceeding.

F. Exceptions to Full Cost Recovery

1. Reduction in Fee Amounts by Category

As outlined above, the Commission has established in this rule fees which include all the recoverable costs associated with the particular benefits and services provided. In doing so, the Commission has categorically reduced the fees for adjustments under the NGPA by approximately 65 percent, and requests for OGC interpretations by approximately 65 percent. The Commission recognizes that there may be other instances in the future where the Commission determines that full-cost recovery fees would have an adverse effect on applicants, or would undermine Commission activities. In such cases, the Commission may again exercise discretion to reduce fees to less than full-cost recovery in order to prevent a disproportionate economic impact or for other good cause. Good cause would include situations where the Commission wishes to encourage use of a service, where less Commission time is required than staff time, or where there is a reduction in the amount of time required to process a filing. Any new, future reduction in a fee would be initiated only by rulemaking. The same percentage of reduction would carry over to subsequent years unless further notice was given by the Commission that it was altering that reduction.

Some commenters argue that the standards for exceptions to full cost recovery are vague, and that the Commission should adopt regulations setting forth specific standards for waiver from full-cost recovery. The Commission believes that the standards enumerated above are sufficiently specific for parties to be apprised of the circumstances under which the Commission may reduce fees to less

[20] Fees are established by taking actual costs and rounding *down* to:

(1) The nearest $5 increment, if the total cost is $100 or less; and

(2) The nearest $100 increment, if the total cost is more than $100.

than full cost recovery. However, the Commission emphasizes that even where these standards may apply, a decision to reduce fees to less than their full cost for a class of applicants involves policy judgments as well as the Commission's expertise. Any categorical reductions in fee amounts will be done by rulemaking. If a rulemaking is developed, the Commission will take into account economic hardship to the class of applicants. This is as specific as is possible given the degree of flexibility the Commission needs in determining good cause for a categorial reduction. This is to be distinguished from a situation where an individual applicant can demonstrate severe economic hardship and qualify for a waiver, as discussed below.

2. Case-by-Case Waiver Procedures

The Commission also realizes that a different situation could arise in which an individual applicant is unable to pay fees as set by the Commission due to severe economic hardship. The Commission recently promulgated a rule establishing the general procedures for case-by-case waiver determinations.[21] If an applicant is suffering from a period of severe economic hardship, the applicant will have the burden of presenting evidence to the Commission, such as a financial statement, showing that the applicant is either economically unable to pay the fee, or that if the applicant does pay the fee, it will place the applicant in a state of financial distress or emergency. The material must be included with the petition for waiver at the time of filing the application. The Commission, or its designee will analyze petitions for waiver to determine whether the standards for waiver have been met. The Commission will notify the applicant as to whether the petition for waiver has been denied or accepted.

G. Procedures for Paying Fees

The Commission's notice stated that fees must be submitted by certified check, made payable to the United States Treasury. A number of commenters argue that there is no reason to require certified checks. They state that a corporate check should be sufficient.

The Commission has already deleted the certified check requirement in establishing its general fee procedures (*see* 18 CFR 381.105). In all cases except for review of jurisdictional agency determinations, a check made payable to the United States Treasury must still be included with the filing or application unless a petition for waiver is submitted in lieu of the fee. The check must indicate for what the fee is being submitted, *e.g.*, request for adjustment under section 502(c). This may be written on the bottom of the check. If the filing or application is not accompanied by either the appropriate fee or a petition for waiver, it will be considered deficient and will not be processed until remedied by the company.

Many commenters, including several jurisdictional agencies, strongly oppose the Commission's proposed procedure of using the jurisdictional agencies to collect the fees for well-category determinations on behalf of the Commission, for eventual forwarding to the Commission. The commenters raise three arguments: (1) The jurisdictional agencies would have to shoulder the additional costs of handling and accounting for the checks, (2) the extent of liability for the theft, loss, or embezzlement is unclear, and (3) the jurisdictional agencies do not have authority to make collections on behalf of the Federal government.

The Commission has decided that it will collect this fee directly from applicants through an annual billing procedure at the end of each calendar year. Under 18 CFR 274.104, the Commission receives a notice of determination from the jurisdictional agency. Following receipt of that notice, the Commission notifies the applicant that it has received the jurisdictional agency determination. At the end of each calendar year, the Commission will mail bills to each producer for all jurisdictional agency determinations received by the Commission in that year related to that producer's wells, beginning with jurisdictional agency determinations received by the Commission after the effective date of this rule. The producer will be required to submit the fee to the Commission within thirty days of the billing date.

Commenters complain of the Commission's decision to exclude the possibility of fee refunds. They argue that the Commission should include a provision in the final rule whereby an applicant could receive a refund if the application were rejected on grounds other than nonpayment of fees, or if the Commission did not respond within a reasonable amount of time.

The Commission's decision not to allow refunds is consistent with the policy behind the IOAA. The statute authorizes Goverment agencies to become self-sustaining to the fullest extent possible. To do so, the agency is to collect fees for services and benefits it provides. The Congress gave this Commission the duty of carrying out functions under the NGPA, the services for which involve reviewing each petition or application, not guaranteeing the issuance of an order or interpretation. The Commission reviews every petition, filing, or request. Some petitions and requests are accepted, some are not. The Commission's fees cover the time and cost of providing these services, as authorized by the IOAA. It does not necessarily cost the Commission any less when it rejects a petition or request. In addition, the Commission's decision not to allow refunds is consistent with its current policy of no refunds of fees under the NGA under Part 159 of the Commission's regulations.

H. Direct Billing

The methodology used to establish the fees in this rule is based on the actual time of processing filings and the actual agency-wide costs involved with this processing. The Commission takes the actual work-months associated with a class of docketed activity and divides it by the number of completions in that class to arrive at an average number of work-months per completion. The figure is then multiplied by the average cost per work-month to arrive at the fee.

However, the Commission occasionally receives filings which are not average. These filings may be extensive in scope and present factual, legal, or policy issues of such complexity that the Commission may devote an extraordinary amount of time and effort to processing them. The standard fees established in this rule bear no reasonable relationship to the actual cost of processing extraordinary filings. Moreover, if the costs of processing extraordinary filings are included in the costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. So, in the case of an extraordinary filings, the Commission reserves the option of ordering a direct billing procedure when the processing of the filing begins, or at any time up to one year after receiving a complete filing. While the Commission does not expect direct billings to be used often in the fee areas covered by this rule, it is necessary to allow the degree of flexibility.

Under the direct billing procedure, the Commission will periodically bill the entity that submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing unless a lesser amount is determined to be fair and equitable. The staff

[21] Final Rule, Fee Applicable to Producer Matters Under the Natural Gas Act, *supra* note 2.

resources devoted to processing a filing resulting in a direct billing will be separately recorded and will not be included in the work-months associated with processing average filings. If the decision to bill a lesser amount is based upon the presence of intervenors in a proceeding, the Commission is retaining the discretion to determine whether some of the costs not directly billed to an applicant should instead be billed to the intervenors. Any decision to directly bill intervenors will be made on a case-by-case basis.

Commenters state that the direct billing procedure is too vague. Commenters also object to the direct billing method because they claim that the complexity of a filing might result from the participation of intervenors and that intervenors should be assessed some of the fee. One commenter states that a proceeding may be complex because it contains public policy issues where the potential benefit to the applicant is secondary to that of the public. As noted above, the Commission agrees that it may be appropriate to allocate some of the costs to intervenors in direct billing situations and that this will be determined on a case-by-case basis.

Also, one commenter requests that an applicant be given an advance estimate of costs, especially since the Commission can prevent an applicant from withdrawing a filing. Finally, one commenter suggests that, in the case of unsuccessful staff contests of filings, there should be no direct billing of additional costs. Where there is a direct billing, the Commission will itemize, to the best degree of accuracy under the MIS, the costs involved in the direct billing. There is no way the Commission can estimate in advance what the costs will be, but once the party is advised that direct billing will be used, it can then decide whether or not to pursue the matter in the filed application. Moreover, the Commission will credit an applicant whose filing becomes subject to direct billing with any fee paid under this fee system.

IV. Other Minor and Conforming Amendments

A number of minor and conforming amendments are necessary to implement the fees for services and benefits provided by the Commission under the NGPA.

This rule adds a requirement in 18 CFR 385.1104(a)(6) that the applicant must send to the Commission, along with an application for adjustment, the fee prescribed in Part 381 or a petition for waiver of the fee.

This rule adds a requirement in 18 CFR 385.1901(d)(6) that the requester must send to the Commission, along with a request for an interpretation, the fee prescribed in Part 381 or a petition for waiver of the fee.

As discussed earlier in Section III.G., *supra*, this rule adds a requirement to Subpart B of Part 274 (in § 274.201) that those producers seeking review of a jurisdictional agency determination must pay annually to the Commission the fee prescribed in Part 381 or submit a petition for waiver of the fee.

This rule adds a requirement in Part 284 (in §§ 284.106 and 284.126) that pipelines filing Title III transaction reports with the Commission are required to send with their filings the fee prescribed in part 381 or a petition for waiver of the fee. Conforming amendments in other sections of Part 284 have been made where necessary to add appropriate cross-references.

This rule makes conforming amendments in Part 375 to provide the appropriate delegations to Commission staff to implement the procedures for waiving or reducing the fees prescribed in Part 381.

V. Regulatory Flexibility Act Statement

When an agency promulgates a final rule under the Administrative Procedure Act (APA), 5 U.S.C. 553, after being required by that section or any other law to publish a notice of proposed rulemaking, a final regulatory flexibility analysis may be appropriate under the Regulatory Flexibility Act of 1980, Section 3, 5 U.S.C. 601–612 (1982). Each final regulatory flexibility analysis must contain (1) a statement of need for, objectives of, and legal basis for the rule, (2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of alternatives to the rule consistent with the stated objectives of the applicable statute which the agency considered and ultimately rejected.

In this preamble, the Commission has already detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes a schedule of fees to be paid to the Commission for certain benefits it provides, in accordance with the IOAA and Budget Circular A–25.

This rule affects natural gas producers, natural gas pipelines, and industrial end-users of natural gas subject to incremental pricing. There are approximately 10,000 natural gas producers, 300 pipelines, and 1,500 industrial end-users subject to incremental pricing in the United States.

Application for well-category determinations are received almost entirely from producers. Of the 10,000 producers in the United States, a substantial majority will eventually require well-category determinations.

During the course of implementing the NGPA section 502(c) adjustment procedures, the Commission has received approximately 300 applications. Slightly more than 50 percent of those requests come from producers pursuant to Title I. Approximately a third are received from pipelines seeking either an adjustment from the Title III regulations or an adjustment from curtailment priority regulations under Title I. Less than 15 percent come from incrementally-priced end-users pursuant to Title II of the NGPA.

Approximately 400 applications for interpretations have been received. Most of those requests have been received from producers and pipelines seeking interpretations of Title I of the NGPA.

Initial and extension reports for transportation transactions are filed by pipelines. Approximately 100 pipelines have participated in such transactions under Title III of the Act.

The Small Business Administration's (SBA) regulations do not establish specific size standards for gas pipelines or producers.[22] Most pipelines, especially interstate pipelines, are large businesses and few of the pipelines subject to Title IV curtailment priorities or engaging in Title III transactions would be small.

The industrial end-users subject to incremental pricing are large users of natural gas. A few of these large users may qualify as small businesses; however, the Commission does not believe they would represent a substantial number based on a sample review of the filings received to date.

While the SBA has not established size standards for producers, a significant proportion of this country's 10,000 natural gas producers would probably be classified as small businesses. Therefore, this rule may have some degree of economic impact on a number of small producers. However, the Commission does not

[22] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines "small-business concerns" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also*, SBA's revised Small Business Size Standards, 49 FR 5024 (Feb. 9, 1984) (to be codified at 13 CFR Part 121).

believe that this impact will be significant for a substantial number of these small producers. The fees established in this final rule for well-category determination are much lower than the fees proposed in the notice of proposed rulemaking, and are so minimal ($25 per application) that the Commission does not believe that they will impose a significant economic burden on any natural gas producer, no matter how small.

With regard to the fees for requests for adjustments and requests for interpretations, the Commission has categorically reduced these fees by approximately sixty-five percent. The Commission has also previously adopted rules (18 CFR 381.106) providing for a waiver of fees for an individual applicant where such applicant can show economic hardship. These reductions and waiver provisions should prevent these fees from causing severe economic hardship to a producer, or to any other small entity subject to the fees. In this regard, it is important to note that the Commission is also required to satisfy the IOAA's statutory directive to be "self-sustaining to the full extent possible." Hence, there is no blanket exemption for small entities. The Commission believes the rule as now promulgated represents a fair balance between the purposes of both the IOAA and the Regulatory Flexibility Act.

VI. Effective Date

The amendments made by this final rule will be effective on October 9, 1984.

List of Subjects

18 CFR Part 157

Natural gas.

18 CFR Part 274

Natural gas, Wage and price controls.

18 CFR Part 284

Continental Shelf, Natural gas , Reporting requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 381

General fees.

18 CFR Part 385

Administrative procedures and practice.

In consideration of the foregoing, the Commission amends Parts 157, 274, 284, 375, 381, and 385 of Chapter 1, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 157—[AMENDED]

1. Part 157 is amended as follows:

a. The authority citation for 18 CFR Part 157, Subpart F reads as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w; Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 142 (1978) unless otherwise noted.

b. A new paragraph (d)(3) is added to § 157.209 to read as follows:

§ 157.209 Transportation.

* * * * *

(d) *Special conditions.*

* * * * *

(3) Each initial report required by paragraph (g)(1) of this section must be accompanied by the fee set forth in § 381.404 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter.

* * * * *

PART 274—[AMENDED]

2. Part 274 is amended as follows:

a. The authority citation for Part 274 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352 (1982); Executive Order No. 12,009, 3 CFR 142 (1978), unless otherwise noted.

b. In § 274.201, a new paragraph (e) is added to read as follows:

§ 274.201 General requirements.

* * * * *

(e) *Filing fees.* Each applicant must pay the fee prescribed in § 381.402 of this chapter. The applicant will be billed annually by the Commission for each jurisdictional agency determination received by the Commission. The applicant shall submit the fee, or petition for waiver pursuant to § 381.106, within 30 days following the billing date.

PART 284—[AMENDED]

3. Part 284 is amended as follows:

a. The authority citation for Part 284 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982), as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7107–7352 (1982); Executive Order No. 12009, 3 CFR 142 (1978).

b. In § 284.105, paragraphs (a) and (b) are revised to read as follows:

§ 284.105 Extensions.

(a) *General rule.* An interstate pipeline seeking to extend a transportation arrangement (1) initially authorized under § 284.102(a), (2) subsequently extended under this section, or (3) extended for an additional two-year term under § 284.107 shall file an extension report as required in a § 284.106 (c) and (e).

(b) *Approval.* If an extension report as required in § 284.106 (c) and (e) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not authorized. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

* * * * *

c. In § 284.106, a new paragraph (e) is added to read as follows:

§ 284.106 Reporting requirements.

* * * * *

(e) *Filing fees.* Each initial full report required by paragraph (a) of this section and each extension report required by paragraph (c) of this section must be accompanied by the fee prescribed in § 381.404 of this chapter or by a petition for waiver pursuant to § 381.106 of this chapter.

d. In § 284.123, paragraph (b)(2)(i) is revised to read as follows:

§ 284.123 Rates and charges.

* * * * *

(b) * * *

(2)(i) If an intrastate pipeline does not choose to make any election under paragraph (b)(1) of this section, it shall apply for Commission approval, by order, of the proposed rates and charges by filing with the Commission the proposed rates and charges, and information showing the proposed rates and charges are fair and equitable. Each petition for approval filed under this paragraph must be accompanied by the fee set forth in § 381.403 or by a petition for waiver pursuant to § 384.106 of this chapter. Upon filing the petition for approval, the intrastate pipeline may commence the transportation service and charge and collect the proposed rate, subject to refund.

* * * * *

e. In § 284.125, paragraph (a) is revised to read as follows:

§ 274.125 Extensions.

(a) *General rule.* An intrastate pipeline seeking to extend a transportation arrangement (1) initially authorized under § 274.122(a), (2) subsequently extended under this section, or (3) extended for an additional two year term under § 284.127 shall file an extension report as required in § 284.126(c) and (e).

* * * * *

f. In § 284.126, a new paragraph (e) is added to read as follows:

§ 284.126 Reporting requirements.

* * * * *

(e) *Filing fees.* Each initial report required by paragraph (a) of this section and each extension report required by paragraph (c) of this section must be accompanied by the fee set forth in § 381.404 of this chapter, or a petition for waiver pursuant to § 381.106 of this chapter.

g. In § 284.148, a new paragraph (e) is added to read as follows:

§ 284.148 Reporting requirements.

* * * * *

(e) *Filing fees.* Each initial report required by paragraph (a) of this section and each extension report required by paragraph (c) of this section must be accompanied by the fee prescribed in § 381.404 of this chapter or by a petition for waiver pursuant to § 381.106 of this chapter.

h. In § 284.163, a new paragraph (d) is added to read as follows:

§ 284.163 Special rule.

* * * * *

(d) *Filing Fees.* The reports required under §§ 284.4(b) and 284.165(d) are accompanied by the fee prescribed in § 381.404 of this chapter or by a petition for waiver pursuant to § 381.106 of this chapter.

PART 375—[AMENDED]

4. Part 375 is amended as follows:

a. The authority citation for Part 375 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1982).

b. In § 375.307, paragraph (u) is revised to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation.

* * * * *

(u) Deny or accept, in whole or in part, petitions for waivers of the fees prescribed in §§ 381.201, 381.202, 381.203, 381.204, 381.205, 381.206, 381.401, 381.402, 381.403, and 381.404 of this chapter in accordance with § 381.106(b) of this chapter.

c. In § 375.309, a new paragraph (e) is added to read as follows:

§ 375.309 Delegations to the General Counsel.

* * * * *

(e) Deny or accept, in whole or in part, petitions for waivers of the fees prescribed in § 381.405 in accordance with § 381.106 of this chapter.

PART 381—[AMENDED]

5. Part 381 is amended as follows:

a. The authority citation for Part 381 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

b. In § 381.103, paragraph (a) is revised to read as follows:

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in §§ 274.201(e) and 381.106, a fee in the amount set forth in this part shall accompany each filing for which a fee has been established.

* * * * *

c. A new Subpart D is added to read as follows:

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978

Sec.

381.401 Adjustments.
381.402 Review of jurisdictional agency determinations.
381.403 Petitions for rate approval pursuant to section 284.123(b)(2).
381.404 Initial or extension reports for Title III transactions.
381.405 Interpretations by the Office of the General Counsel.

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978

§ 381.401 Adjustments.

The fee established for an application for adjustment under section 502(c) of the NGPA, including a request for exemption from incremental pricing under section 206(d) of the NGPA, is $6,000. Such fee must be submitted in accordance with Subpart A of this part and § 385.1104.

§ 381.402 Review of jurisdictional agency determinations.

The fee established for review of a jurisdictional agency determination is $25. Such fee must be submitted in accordance with Subpart A of this part and § 274.201(e).

§ 381.403 Petitions for rate approval pursuant to § 284.123(b)(2).

The fee established for a petition for rate approval pursuant to § 284.123(b)(2) is $2,000. Such fee must be submitted in accordance with Subpart A of this part and § 284.123(b)(2).

§ 381.404 Initial or extension reports for Title III transactions.

The fee established for an initial or extension report is $800. Such fee must be submitted in accordance with Subpart A of this part and §§ 157.209(d), 284.105(a), 284.106(e), 284.126(e), 284.148(e), and 284.165(d).

§ 381.405 Interpretations by the Office of the General Counsel.

The fee established for an OGC interpretation of the NGPA is $1,200. Such fee must be submitted in accordance with Subpart A of this part and § 385.1901.

PART 385—[AMENDED]

6. Part 385 is amended as follows:

a. The authority citation for Part 385 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1970); Natural Gas Act, 15 U.S.C. 717–717z (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

b. In § 385.1104, a new paragraph (a)(6) is added to read as follows:

§ 385.1104 Initial petition (Rule 1104).

(a) * * *

(6) The petition must be accompanied by the fee prescribed in § 381.401 of this chapter or by a petition for waiver pursuant to § 381.106 of this chapter.

* * * * *

c. In § 385.1901, a new paragraph (d)(6) is added to read as follows:

§ 385.1901 Interpretations and interpretative rules under the NGPA (Rule 1901).

* * * * *

(d) * * *

(6) The request must be accompanied by the fee prescribed in § 381.405 of this chapter or by a petition for waiver pursuant to § 381.106 of this chapter.

* * * * *

[FR Doc. 84-23570 Filed 9-6-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 79N-0371]

GRAS Status of Lactic Acid and Calcium Lactate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

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

DATES: Effective October 9, 1984. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1061 and 184.1207 effective on October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 16, 1980 (45 FR 32324), FDA published a proposal to affirm that lactic acid and calcium lactate are GRAS for use as direct human food ingredients. FDA published this proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published in the **Federal Register** of February 25, 1983 (48 FR 8086), a tentative final rule that omitted the listing of the use levels and food categories that appeared in the proposal. The tentative final rule also modified the specifications paragraph of the regulation on each substance to reference the third edition of the Food Chemicals Codex (1981). The agency made these modifications in an effort to make these regulations consistent with a proposal that the agency had issued on September 7, 1982 (47 FR 39199), to include conditions of use for substances affirmed as GRAS under 21 CFR 184.1(b)(1) only when appropriate. (FDA finalized this rule on Oct. 19, 1983 (48 FR 48457).)

The agency also modified the proposed regulations to include a method for synthesizing lactic acid in § 184.1061(a) and to include calcium hydroxide in § 184.1207(a) as a substance that could be used in the production of calcium lactate. FDA made these modifications in response to comments on the proposed rule.

In the preamble to the tentative final rule, FDA stated that it would review any comments it received within the 60-day comment period that were relevant to the omission of the use levels and food categories. The agency did not receive any comments on these issues, but it did receive two comments that addressed other issues.

1. The tentative final rule excluded the use of calcium lactate and lactic acid in infant foods and infant formulas from the uses of these ingredients that the agency proposed to affirm as GRAS. One comment requested that FDA exclude only the use of the DL and D forms of lactic acid and calcium lactate in infant foods and infant formulas from GRAS affirmation. The comment cited opinions of both the Select Committee on GRAS Substances (the Select Committee) of the Federation of American Societies for Experimental Biology and the 10th, 17th, and 18th meetings of the Joint Food and Agriculture Organization/World Health Organization (FAO/WHO) Expert Committee on Food Additives in support of its claim that use of the L-isomers of these ingredients should not be restricted on the basis of safety. The comment stated that the L-isomers of these ingredients are used in Europe in infant milk products of the acid-tasting type and reported that they are used in the United States as well.

FDA agrees that neither the Select Committee report on lactic acid and calcium lactate nor the FAO reports cited in the comment present evidence that L-lactic acid or L-calcium lactate produce toxic effects in infants. The agency also is not aware of any evidence that would raise questions about the safety of these substances for consumption by infants. Nevertheless, the agency believes that adequate evidence does not exist to affirm as GRAS the general use of these ingredients in infant foods and infant formulas. Neither the comment nor the Select Committee report contained information or safety data on the general use of these ingredients in infant foods and formulas. On the contrary, the Select Committee reported that it was not aware of any use of these ingredients in infant formulas except in products designed for special dietary or therapeutic purposes, and it did not evaluate these specialty uses. Moreover, in both Europe and the United States, the only current uses of these ingredients in infant formulas are in specialty products. Thus, no evidence exists that these ingredients are in common use in infant formulas. Based on this fact and on the current lack of safety data on the use of the L-isomers in infant foods, FDA has concluded that an appropriate basis on which to affirm that the general use of these ingredients in infant formulas and infant foods in GRAS does not exist. As the agency pointed out in the proposal on lactic acid and calcium lactate, published in the **Federal Register** of May 16, 1980, the reported use of these substances in acidified infant products in Europe and in special dietary and therapeutic infant products in the United States are outside the scope of the GRAS review. Therefore, FDA has not modified the tentative final rule in response to this comment.

2. One comment noted an error in the description of the chemical synthesis of lactic acid that appeared in the preamble to the tentative final rule (48 FR 8087). The comment noted that lactic acid may be synthesized by a process involving reaction of acetaldehyde and hydrogen cyanide, but that it is not prepared with acetonitrile and hydrogen cyanide as described in the preamble.

The agency agrees with the comment that the description of this process in the preamble was incorrect. However, the agency finds that the description of the process in paragraph (a) of § 184.1061 in the tentative final rule was correct. Therefore, the agency has not modified the tentative final rule in response to this comment.

FDA has made a minor editorial change in the regulation on lactic acid.

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

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action.

FDA has not received any new information or comments that would alter its previous determination.

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

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

List of Subjects

21 CFR Part 182

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

21 CFR Part 184

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

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

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1061 [Removed]

1. In Part 182:

a. By removing § 182.1061 *Lactic acid.*

§ 182.1207 [Removed]

b. By removing § 182.1207 *Calcium lactate.*

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

2. In Part 184:

a. By adding new § 184.1061 to read as follows:

§ 184.1061 Lactic acid.

(a) Lactic acid ($C_3H_6O_3$, CAS Reg. Nos.: DL mixture, 598–82–3; L-isomer, 79–33–4; D-isomer, 10326–41–7), the chemical 2-hydroxypropanoic acid, occurs naturally in several foods. It is produced commercially either by fermentation of carbohydrates such as glucose, sucrose, or lactose, or by a procedure involving formation of lactonitrile from acetaldehyde and hydrogen cyanide and subsequent hydrolysis to lactic acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 159, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Avenue, NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

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

(1) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter; a curing and pickling agent as defined in § 170.3(o)(5) of this chapter; a flavor enhancer as defined in § 170.3(o)(11) of this chapter; a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; and a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in food, except in infant foods and infant formulas, at levels not to exceed current good manufacturing practice.

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

b. By adding new § 184.1207 to read as follows:

§ 184.1207 Calcium lactate.

(a) Calcium lactate ($C_6H_{10}CaO_6.xH_2O$), where x is any integer up to 5, CAS Reg. No. 814–80–2) is prepared commercially by the neutralization of lactic acid with calcium carbonate or calcium hydroxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 53, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Avenue NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

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

(1) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; a flavor enhancer as defined in § 170.3(o)(11) of this chapter; a flavoring agent or adjuvant as defined in § 170.3(o)(12) of this chapter; a leavening agent as defined in § 170.3(o)(17) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; and a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in food, except in infant foods and infant formulas, at levels not to exceed current good manufacturing practice.

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

Effective date. This regulation shall be effective October 9, 1984.

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

Dated: August 14, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–23654 Filed 9–6–84; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R–84–1030; FR–1612]

Community Development Block Grants for Indian Tribes and Alaskan Native Villages

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

ACTION: Final rule.

SUMMARY: This rule makes final the regulations governing the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages. Some revisions have been made to the previously published interim rule by this final rule. These revisions are intended to continue efforts to simplify the regulations' text and the application process.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice

of the effective date is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marcia A.B. Brown, 7134, Office of Program Policy Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6092 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This final rule was published as an interim rule in the **Federal Register** of March 18, 1983 (48 FR 11648). The interim rule became effective on March 18, 1983, and invited public comments for a sixty-day period ending May 17, 1983. The publication of an interim rule after publication of a proposed rule (47 FR 55868) followed by the publication of an interim rule on December 13, 1982 (48 FR 55868) was to allow a more lengthy public comment period.

Public Comment

Three public comments were received on the interim rule. The first comment discussed three concerns. First was the concern that the Department was sharply reducing the consultation requirement. The commenter states that "consultation is no longer required for program or policy changes, or changes in the regulations generally." The Department disagrees with the commenter's conclusion, for the following reasons. The entire regulation process, which begins with oral or written discussions with constituents to be affected, requires that constituents' views on policy changes be gathered throughout the process. The Department continues to solicit and welcome the views of the public, and Indian Tribes in particular, before making changes, as is evident in this instance from the publication of a predecessor proposed rule (47 FR 55868) followed by the publication of an interim rule (48 FR 11648), both of which invited public comment. In addition, the Department earlier held discussions with advocates of issues that required policy changes. Accordingly, this rule's reference to the consultation process for the annual competition for funds should not be read as negating the Department's policy of consulting with affected parties before rulemaking.

The second part of this comment recommended a noncompetitive distribution of funds. The commenter states that noncompetitive distribution has apparently worked in some regions satisfactorily, and that where there is a consensus among the Tribes for such a distribution, it should be permitted. The Department knows of no instance in which a noncompetitive distribution was used. There has been one instance in one region where all the Tribes that *applied* for funds and met the threshold requirements received funding. This is considerably different from a noncompetitive distribution, which would mean that all Tribes eligible in a region, irrespective of their capabilities, would be funded. The Department rejects the recommendation because in no one region administering the program are there sufficient funds for all eligible Tribes. Moreover, the best way to ensure an equitable allocation of funds among applicants with the capacity to perform adequately is a competitive program.

The last part of the comment suggested that § 571.703 be eliminated, or that the procedural protections of § 571.704 be incorporated into it. The commenter's concern that the reduction or withdrawal provisions of § 571.703 will apply to any deficiency of performance fails to consider that § 571.703 will not be used "until at least one of the corrective or remedial actions specified in § 571.702(b) has been taken and then only if the recipient has not made an appropriate and timely response." § 571.703(a). It is not the intent under § 571.703 that a grant would be unilaterally withdrawn or reduced for minor performance problems without first exhausting all other possible remedies through cooperative effort. However, the sanctions under § 571.704 will only be invoked for more serious violations under the Housing and Community Development Act of 1974.

The second comment had no specific recommendations. Essentially, the comment expressed support for the Indian CDBG Program and appreciation for past assistance.

The last comment raised several concerns. The first addressed the revision in § 571.5, which sets the date by which a tribe must establish eligibility (as an Indian tribe under applicable law and regulations) before the tribe can qualify to apply for funding. The date was formerly 90 days before the beginning of the fiscal year (or July 1). The commenter prefers the July 1 eligibility date rather than an eligibility date of March 21—the former application submission date in the commenter's jurisdiction.

The Department rejects this comment. Neither date is applicable under the relevant section—§ 571.5. Under this section, to qualify for funding an applicant must be eligible as an Indian tribe not by 90 days before the fiscal year (the date fixed under the former regulations), but by the application submission date. The application submission date will vary from region to region, but in all cases will fall after October 1—the start of the fiscal year.

A further reason for the Department's rejection of this comment is that when the eligibility date was set as July 1 (i.e., 90 days before the start of the fiscal year), those tribes that were not eligible (i.e., not yet legally considered an Indian tribe) by that date could not qualify for funding in the immediately following fiscal year, but had to wait until the next following fiscal year. Under this rule, however, these Tribes may have a better chance of becoming eligible, and thus qualify to apply for funding by a much earlier date.

The second part of this comment asserted, in referring to § 571.302, that the determination of managerial, technical, and administrative capability is subjective when made by an outside agency. The comment argued that the Tribe has the capability of determining deficiencies in these areas that it may later report to HUD. The Department does not think that as a matter of policy it is prudent to award a grant and then assess the capacity of a tribe to undertake the grant. This determination must be made before the grant is awarded. Moreover, the Department's view is that under § 571.302 the process is sufficiently insulated from nonobjective considerations to ensure that all applicants are treated fairly.

The third part of the comment commended the Department for reducing administrative red tape through the simplification of the citizen participation requirements.

Another concern mentioned in this comment was that a distinction should be made between *needs* and *population size* in determining funding. The commenter expressed a preference for needs, rather than for population size, as a basis for determining priority in funding. Both the number and the percentage of persons in poverty and unemployment are used in the rating process. This method will minimize the incidence of those Tribes with the largest populations receiving the highest number of points solely for that reason.

The final comment objected to holding a Tribe responsible for an Indian Housing Authority's (IHA) performance even though that authority is responsible for its own actions. The Department does not intend to hold the applicant responsible for the actions of its IHA. Rather, the intent is to hold the applicant responsible for compliance with its own resolution of support for the IHA, which is required by 24 CFR Part 905 (formerly Part 805). (See Article VIII of the Model Tribal Ordinance,

published at 24 CFR Part 905, Subpart A, Appendix I.)

Revisions to the Regulations

Some nonsubstantive changes were made to these regulations to improve its clarity and to correct omissions.

Subpart A—General Provisions

In § 571.2, language has been added to make the program objective of the CDBG Program consistent with the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, approved November 30, 1983 (1983 Act). The 1983 Act amended the primary objective of the Housing and Community Development Act of 1974 to make clear that each grantee's program must have the same objective as the CDBG Program.

Section 571.3, which describes the nature of the program, now emphasizes that, in addition to having the administrative capacity to undertake the proposed community development activities, grantees must have systems of internal control to prevent fraud, waste, and mismanagement.

In § 571.4, the definition of "low- and moderate-income families/persons" has been modified to be consistent with changes required by section 102(c) of the 1983 Act. The new definition substitutes the word household for family. The terms are now defined in two separate paragraphs, § 571.4 (h) and (i), resulting in a redesignation of the existing paragraphs.

Section 571.4(m) is reproduced here in the identical language in which it was published in the final rule issued on May 7, 1984 at 49 FR 19302.

Section 571.6(a) has been revised to further clarify the subject matter areas of field office proposals on which applicants will have an opportunity to comment during the annual consultation.

"Or" has been changed to "and" in § 571.7, to be consistent with a similar provision in 24 CFR Part 570 governing the other CDBG programs.

Subpart B—Allocation of Funds

Section 571.101 reflects changes already implemented in the final rule separately published on May 7, 1984 (49 FR 19300). It is republished in this rule without change.

Subpart C—Eligible Activities

In § 571.203, a definition of technical assistance has been added.

Subpart D—Single Purpose Grant Application and Selection Process

Language has been added to § 571.300(a) to clarify that applicants should submit only one application, which may include several projects, each of which will be rated separately.

Paragraph f(4) in § 571.300 clarifies that the resolution to be submitted in the application certifying that the citizen participation requirements have been met must be "an official tribal resolution," meaning it must be properly numbered, signed, and dated.

New paragraphs (e) and (g) have been added to § 571.302, with the old paragraph (e) being redesignated as paragraph (f). The new paragraph (e) makes it clear that applicants shall have the opportunity to review the documentation pertaining to each fiscal year's competition for a period of time to be set by the Field Office (which can not be less than 30 days). Paragraph (g) provides that different criteria may govern the selection of projects to be funded from monies set aside by statute for a specific purpose.

Section 571.304 has been reworded to simplify the program amendment process. Amendments of $10,000 or more must address the rating factors of the last rating cycle, since these amendments will be rated as part of the approval process. Amendments of less than $10,000 need not address the rating factors. In approving these latter amendments, HUD Field Offices will examine grantees' capability and compliance with citizen participation and environmental requirements. Amendments of either size that address imminent threats to health and safety will be reviewed and approved in accordance with Subpart E—Imminent Threat Grants.

Paragraph (c) has been added to § 571.304 to give notice that if a program amendment fails to be approved and the original project is no longer feasible, the grant funds proposed for the amendment must be returned to HUD.

Subpart F—Grant Administration

Section 571.500 has been revised to indicate that the reference to 24 CFR Part 570, Subpart J—Grant Administration does not require Indian CDBG grantees to conform to requirements that are specifically stated as applying to the Entitlement Cities or Small Cities-HUD administered programs.

Section 571.503 contains several revisions to the Indian preference requirements to clarify that grantees, to the greatest extent feasible, shall give preference to Indian bidders when awarding contracts. The first revision is the addition of language of § 571.503(d)(1) which clarifies that the grantee must select one of three methods described in paragraphs (i) to (iii). If the selected method produces fewer than two qualified statements of intent, bids, or proposals submitted by Indian organizations, the grantee cannot award the contract, but must choose one of three options. The first option is to rebid the contract, using one of the Indian preference methods described in § 571.503(d)(1). The interim rule did not make clear that the methods of awarding Indian preference could be reused. This rule corrects that ambiguity. A grantee may select the rebid option because it knows that qualified Indian bidders are available, but circumstances may have prevented their bidding the first time, resulting in fewer than two Indian bids.

The second option is to use the open competition method of the new paragraph (d)(2) (formerly paragraph (iv) in § 571.503(d)(1) of the interim rule). This method does not provide Indian preference. By selecting this method, a grantee would have determined that Indian preference is not feasible even after providing for Indian preference in accordance with § 571.503(d)(1) i.e., no qualified Indian bidder(s) responded, or the bid(s) received from the Indian organization(s) responding was not approvable under this rule.

In the case of a grantee that receives only one Indian bid, the grantee may use a third option of awarding the contract to the single bidder, provided the grantee first submits the proposed contract and related procurement documents to the Field Office for review and approval. This provision, which is contained in OMB Circular A–102, has been added to this final rule to clarify that HUD did not intend that grantees incur additional expense to rebid a contract, when one approvable Indian bid had previously been received.

Former paragraph (2) of § 571.503(d) has been redesignated as paragraph (4) in order to add a new paragraph (3) that clarifies that the formal bid procedures of paragraph (1) or (2) do not apply to procurements of $10,000 or less. Procurements of this size are governed by the small purchase procedures of Attachment O of OMB Circular A–102. To the greatest extent feasible, small purchase procurement shall provide for Indian preference.

Redesignated paragraph (4) adds language which indicates that preferences shall be announced in the advertisement and bidding solicitation, as well as in the bidding documents.

Subpart G—Other Program Requirements

Section 571.600 has been rewritten specifically to reference the sections in 24 CFR Part 570, Subpart K—Other

Program Requirements—that apply to grantees under Part 571.

Paragraph (a) of § 571.603 has been rewritten to clarify that Section 110 (Labor Standards) of the Housing and Community Development Act of 1974 (Act) has been waived with respect to 24 CFR Part 571, including the Davis-Bacon wage requirement.

Paragraph (b) of § 571.603 has been deleted. With the waiver of Section 110 of the Act (Labor Standards) for Indian CDBG projects, the requirements of the Contract Work Hours and Safety Standards Act (Contract Work Hours), 40 U.S.C. 327–333, are not applicable on their own terms. Since the application of Contract Work Hours is not required by law, the Department believes it should not be administratively imposed. Former paragraph (c) of § 571.603 is now redesignated as paragraph (b).

Section 571.604(b) adds language to ensure that applicants know that an official tribal resolution is required to show that citizen participation requirements have been met.

Subpart H—Program Performance

In section 571.700, the status report requirement described in paragraph (c) has been shortened. Grant recipients no longer have to report on the status of environmental assessments and environmental impact statements that they have prepared, since this information is available to Field Offices from other sources.

Section 571.702 has new language added to clarify what is intended by two corrective actions specified in paragraph (b). The first action now requires the recipient to submit progress schedules for completing approved activities or for complying with the requirements of this Part. The second action has been clarified to require that the letter of warning to a recipient describe the corrective actions to be taken. This letter of warning can address housing assistance deficiencies as well as other deficiencies.

Section 571.703(b) has been revised by the deletion of the phrase "or deducted from future grants" in the last sentence. Inclusion of this phrase was an oversight, since it applies strictly to the Entitlement Cities CDBG Program.

Other Information

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule will simplify and reduce the requirements for applicants and grantees. Additionally, in making grants the program provides ample funds to cover those expenditures related to the administrative costs of the program.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Finding of No Significant Impact with respect to the environment, made in conjunction with the Interim Rule published March 17, 1983, remains applicable, and is in no way altered by this rule. It was made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule is listed at 49 FR 15949 as RIN:2506–AA09 (CPD–18–79, FR–1612) in the Department's Semiannual Agenda of Regulations published on April 19, 1984 under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance number is 14.223.

Information collection requirements contained in these regulations (§§ 571.300, 571.303, 571.502, and 571.700) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2506–0043.

List of Subjects in 24 CFR Part 571

Community development block grants, Grant programs: housing and community development, Grant programs: Indians, Indians.

Accordingly, 24 CFR Part 571 is revised to read as follows:

PART 571—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

Subpart A—General Provisions

Subpart B—Allocation of Funds

Subpart C—Eligible Activities

Subpart D—Single Purpose Grant Application and Selection Process

Subpart E—Imminent Threat Grants

Subpart F—Grant Administration

Subpart G—Other Program Requirements

Subpart H—Program Performance

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 571.1 Applicability and scope.

The policies and procedures described in this Part apply only to grants to eligible Indian Tribes and Alaskan Native Villages under the Community Development Block Grant (CDBG)

Program for Indian Tribes and Alaskan Natives Villages.

§ 571.2 Program objectives.

The primary objective of the Indian CDBG Program and of the community development program of each grantee covered under this Act is the development of viable Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income. The Federal assistance provided in this Part is for the support of community development activities which further this objective. This assistance is not to be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of this assistance.

§ 571.3 Nature of program.

The Indian CDBG Program is competitive in nature. The demand for funds far exceeds the amount of funds available. Therefore, selection of eligible applicants for funding will reflect consideration of relative need among applicants, and relative adequacy of applications in addressing locally-determined need. Applicants for funding must have the administrative capacity to undertake the community development activities proposed including the systems of internal control necessary to administer these activities effectively without fraud, waste, or mismanagement.

§ 571.4 Definitions.

(a) "Act" means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.).

(b) "Chief executive officer" means the elected official or legally-designated official who has the prime responsibility for the conduct of the affairs of an Indian Tribe or Alaskan Native Village.

(c) "Eligible Indian populations" means the most accurate and uniform population data available from reliable sources for Indian Tribes and Alaskan Native Villages eligible under this Part.

(d) "Extent of poverty" means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census referable to the same point or period in time and the latest reports from the Office of Management and Budget.

(e) "Field offices" means the HUD Offices of Indian Programs or Field Office having responsibility for the Indian CDBG Program.

(f) "HUD" means the Department of Housing and Urban Development.

(g) "Identified service area" means (1) a geographic location within the jurisdiction of a Tribe (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a service area; (2) the BIA service area, including residents of areas outside the geographical jurisdiction of the Tribe; or (3) the entire area under the jurisdiction of a Tribe which has a population of members under 10,000.

(h) "Low and moderate-income household" or "lower income household" means a household whose income does not exceed 80 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(i) "Low and moderate income person" or "lower income person" means a member of a family having a family income within the limits determined in accordance with paragraph (h) of this section or any unrelated individual whose income does not exceed the one-person limit determined in accordance with paragraph (h).

(j) "Secretary" means the Secretary of HUD.

(k) "Tribal Government," "Tribal governing body" or "Tribal Council" means the recognized governing body of an Indian Tribe or Alaskan Native Village.

(l) "Tribal resolution" means the formal manner in which the Tribal government expresses its legislative will in accordance with its organic documents. In the absence of such organic documents, a written expression adopted pursuant to Tribal practices will be acceptable.

(m) "Extent of overcrowded housing" means the number of housing units with 1.01 or more persons per room based on data compiled and published by the United States Bureau of the Census available from the latest census referrable to the same point or period of time.

(n) "Unemployment" means the number of persons 16 years old and over who are out of work, but are willing and able to work.

§ 571.5 Eligible applicants.

(a) Eligible applicants are any Indian Tribe, band, group, or nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaskan Native Village of the United States which is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221). Eligible recipients under the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs and eligible recipients under the State and Local Fiscal Assistance Act of 1972 will be determined by the Department of Treasury, Office of Revenue Sharing.

(b) Tribal organizations which are eligible under Title I of the Indian Self-Determination and Education Assistance Act may apply on behalf of any Indian Tribe, band, group, nation, or Alaskan Native Village eligible under that Act for funds under this Part when one or more of these entities have authorized the tribal organization to do so through concurring resolutions. Such resolutions must accompany the application for funding. Eligible tribal organizations under Title I of the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs.

(c) Only eligible applicants shall receive grants. However, eligible applicants may contract or otherwise agree with non-eligible entities such as States, cities, counties, or organizations to assist in the preparation of applications and to help implement assisted activities.

(d) To apply for funding in a given fiscal year an applicant must be eligible as an Indian tribe or Alaskan Native Village, as provided in paragraph (a) of this section, or as a tribal organization, as provided in paragraph (b) of this section by the application submission date.

§ 571.6 Consultations.

On an annual basis, written or oral consultations will be held with eligible applicants by each Field Office, for these purposes:

(a) To allow eligible applicants an opportunity to comment on Field Office proposals affecting that fiscal year's rating process, including the determination of grant ceilings, competitions by tribal size, and definitions of rating factors;

(b) To provide eligible applicants with information on how to apply for funds and how grants will be selected and awarded; and

(c) To inform eligible applicants of changes in the program.

§ 571.7 Waivers.

The Secretary may waive any requirement of this Part not required by law whenever it is determined that undue hardship will result from applying the requirement, and where application of the requirement would adversely affect the purposes of the Act.

Subpart B—Allocation of Funds

§ 571.100 General.

(a) Types of grants. Two types of grants are available under the Indian CDBG Program.

(1) *Single Purpose grants* provide funds for one or more single purpose projects each consisting of an activity or set of activities designed to meet a specific community development need. This type of grant is awarded through competition with other single purpose projects.

(2) *Imminent Threat grants* alleviate an imminent threat to public health or safety that requires immediate resolution. This type of grant is awarded only after a Field Office determines that such conditions exist and if funds are available for such grants.

(b) Size of Grants.

(1) *Ceilings.* Each Field Office may establish grant ceilings for Single Purpose and Imminent Threat Grant applications

(2) *Individual grant amounts.* In determining appropriate grant amounts to be awarded, the Field Office may take into account the size of the applicant, the level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, and the administrative capacity of the applicant to complete the activities in a timely manner.

§ 571.101 Regional allocation of funds.

(a) Except as provided in paragraph (b) of this section, funds will be allocated to the Field Offices responsible for the program on the following basis:

(1) Each Field Office will be allocated $500,000 as a base amount, to which will be added a formula share of the balance of the Indian CDBG Program funds, as provided in paragraph (a)(2) of this section.

(2) The amount remaining after the base amount is allocated will be allocated to each Field Office based on the most recent data available from reliable sources referrable to the same point or period in time, as follows:

(i) Forty percent (40%) of the funds will be allocated based upon each Field Office's share of the total eligible Indian population;

(ii) Forty percent (40%) of the funds will be allocated based upon each Field Office's share of the total extent of poverty among the eligible Indian population; and

(iii) Twenty percent (20%) of the funds will be allocated based upon each Field Office's share of the total extent of overcrowded housing among the eligible Indian population.

(b) If funds are set aside by statute for a specific purpose in any fiscal year, the formula in paragraph (a) of this section will apply unless otherwise specified in the law, or unless it is determined that the formula is inappropriate to accomplish the purpose, in which case other criteria may be established by the Secretary in determining an allocation formula to be used to distribute funds to the Field Offices.

(c) Data used for the allocation of funds will be based upon the eligible Indian population of those Tribes and Villages that are determined to be eligible ninety (90) days before the beginning of each fiscal year.

Subpart C—Eligible Activities

§ 571.200 General.

The eligibility requirements of Part 570, Subpart C of this title—Eligible Activities—apply to grants under this part except for those provisions which are specifically stated as applying to the Entitlement Cities or Small Cities-HUD administered programs, and with the modifications stated in this subpart.

§ 571.201 Facilities.

(a) Neighborhood facilities are synonomous with tribal or village facilities.

(b) Fire protection facilities, solid waste disposal facilities and parking facilities defined in 24 CFR 570, Subpart C must be located in or serve identified service areas.

§ 571.202 Non-profit organizations.

Tribal-based non-profit organizations replace neighborhood-based non-profit organizations under 24 CFR Part 570, Subpart C. A Tribal-based Non-profit Organization is an association or corporation duly organized to promote and undertake community development activities on a not-for-profit basis within an identified service area.

§ 571.203 Administrative costs.

(a) For purposes of this Part, technical assistance costs associated with the development of a capacity to undertake a specific funded program activity are not considered administrative costs. Therefore, these costs are not included in the twenty percent limitation on planning and administration stated in Part 570, Subpart C.

(b) Technical assistance costs cannot exceed ten percent of the total grant award.

(c) Technical assistance is defined as the transfer of skills and knowledge in planning, developing, and administering the CDBG program to eligible Indian CDBG recipients who need them in order to undertake a specific funded program activity.

Subpart D—Single Purpose Grant Application and Selection Process

§ 571.300 Application requirements.

(a) *General.* Applications are required for assistance under this Part. An applicant shall submit only one application, which may include any number of eligible projects. Single Purpose grant applications will have each project rated separately. Applications shall include projects which can be completed within a reasonable period of time, generally not more than two years.

(b) *Submission dates.* Each Field Office will establish deadlines for the submission of applications. Submission dates will be published by HUD as a notice in the **Federal Register.**

(c) *Demographic data.* Applicants may submit data that are unpublished and not generally available in order to meet the requirements of this section. The applicant must certify that:

(1) Generally available, published data are substantially inaccurate or incomplete;

(2) Data provided have been collected systematically;

(3) Data are, to the greatest extent feasible, independently verifiable; and

(4) Data differentiate between reservation and BIA service area populations when applicable.

(d) *Costs incurred by applicant.* (1) Notwithstanding any provision in Part 570 of this title, HUD will not reimburse or recognize any costs incurred before submission of the Single Purpose grant application to HUD.

(2) Also, HUD will not normally reimburse or recognize costs incurred before HUD approval of the application for funding. However, under unusual circumstances the Field Office may consider and approve written requests to recognize and reimburse costs incurred after submission of the application where failure to do so would impose undue or unreasonable hardship on the applicant. Such authorization will be made only before the costs are incurred and where the requirements for reimbursement have been met in

accordance with 24 CFR 58.22, and with the understanding that HUD has no obligation whatsoever to approve the application or to reimburse the applicant should the application be disapproved.

(e) *Publication of community development statement.* Applicants for Single Purpose grants shall prepare and publish or post the community development statement portion of their application according to the citizen participation requirements of § 571.604.

(f) *Application components.* Applicants for Single Purpose grants shall submit an application to the appropriate Field Office in a form prescribed by HUD. Components of the application shall include the following:

(1) Standard form 424;

(2) Community development statement, which includes:

(i) Brief description of community development needs;

(ii) Brief description of proposed projects to address needs, including scope, magnitude, and method of implementing project; and

(iii) Cost information by project, including specific activity costs, administration, planning, and technical assistance, total HUD share, and amount of other funds by source.

(3) Map showing project location, if appropriate; and

(4) Certification in the form of an official tribal resolution that citizen participation requirements of § 571.604 have been met.

(Approved by the Office of Management and Budget under OMB control number 2506–0043)

§ 571.301 Screening and review of applications.

(a) *Criteria for acceptance.* Applications for Single Purpose grants will be initially screened by each Field Office and accepted if:

(1) They have been received or postmarked on or before the submission date;

(2) The applicant is eligible;

(3) The proposed activities are eligible; and

(4) They contain substantially all the components specified in § 571.300(f). Applications failing this initial screening shall be rejected and returned to the applicants unrated.

(b) *Demographic data.* HUD will review and accept demographic data provided by an applicant if in HUD's determination the data are of the quality described in § 571.300(c). Where demographic data provided by an applicant are unacceptable, HUD will use the best available data at HUD's disposal.

(c) *Grant ceiling.* Where Field Offices have established grant ceilings, applications will be reviewed for compliance.

§ 571.302 Selection process.

(a) *Threshold requirements.* In order for applications that have passed the initial screening tests of § 571.301 to be rated and ranked, Field Offices must determine that the following threshold requirements have been met:

(1) *Community development need and appropriateness:*

(i) The applicant's project(s) directly impacts on its community development needs;

(ii) The costs are reasonable;

(iii) The project(s) is appropriate for the intended use; and

(iv) The project(s) is usable or achievable generally within a two year period. If available data, in the judgment of the Field Office, indicate that the proposed project(s) is inconsistent with the applicant's community development needs, its costs are unreasonable, it is inappropriate for the intended use, or not usable generally within two years, the Field Office shall determine that the applicant has not met this threshold requirement, and reject the application from further consideration.

(2) *Capacity and performance.* The applicant has the capacity to undertake the proposed program. Additionally, applicants that have previously participated in the Indian CDBG Program must have performed adequately or, in cases of previously documented deficient performance, the applicant must have taken appropriate corrective action to improve its performance.

(i) *Capacity.* The applicant possesses, or will acquire, the managerial, technical, or administrative staff necessary to carry out the proposed projects. If the Field Office determines that the applicant does not have or cannot obtain the capacity to undertake the grant, the application will be rejected from further consideration.

(ii) *Performance.*

(A) *Community development.* Performance determinations are made through the Field Office's normal monitoring process. Applicants that have been advised in writing of negative findings on previous grants, for which a schedule of corrective actions has been established, will not be considered for funding if they are behind schedule as of the deadline date for filing applications.

(B) *Housing assistance.* Actions have been taken by the applicant within its control to facilitate the provision of housing assistance for low- and moderate-income members of the Tribe or Alaskan Village. Any action to prevent the provision or operation of assisted housing for low- and moderate-income persons shall also be evaluated in terms of whether it constitutes inadequate performance by the applicant. If inadequate performance is found, the applicant shall be rejected from further consideration. Subsequent applications will also be similarly disqualified in subsequent competitions unless the applicant has taken corrective actions within its control.

(C) *Previous audit finding and outstanding monetary obligations.* An applicant that has an outstanding Community Development Block Grant obligation to HUD that is in arrears, or for which a repayment schedule has not been agreed to, will be disqualified from the current and subsequent competitions until the obligations are current. An applicant whose response to an audit finding(s) is overdue or unsatisfactory will be disqualified from the current and subsequent competitions until the applicant has taken final action necessary to close the audit finding(s). The Field Office Director may provide waivers of this disqualification in those cases where the applicant has made a good faith effort to clear the audit finding(s). In no instance, however, shall a waiver be provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made, and payments are current.

(b) *Information submitted on request.* A Field Office may, in its discretion, request that an applicant submit information that may help to clarify an application that in the Field Office's view contains information that is inconsistent with known facts or data; or inadequate in substance to make a threshold or rating determination, or a determination of compliance with the requirements of this part. Applicants shall only submit the information in response to inquiries made by HUD. A new project(s) may not be substituted for one(s) proposed in the original application. Applicants failing to meet the information request shall be disqualified from the competition if the Field Office determines that the applicant fails to meet the threshold requirements; or that information is lacking to make rating determinations, or to show compliance with requirements of this part.

(c) *Rating factors and criteria.* Applications which meet the threshold requirements established in paragraph (a) of this section will be rated competitively. Each project proposed in the application will be rated separately

against others addressing the same impact factor.

(1) All projects will be rated against these specific factors:

(i) Relative needs of the applicant as measured by the extent of poverty or unemployment as represented by both numbers and percentages of persons living in this condition; and

(ii) Degree of benefit of the proposed projects as measured by the number and percentage of low- and moderate-income persons to be served by the project.

(2) Additional rating factors will be developed by each Field Office to address these rating criteria:

(i) The impact of the proposed project on the applicant's community development need as measured by factors which may include, but are not limited to the following:

(A) The degree of impact of the proposed project on the provision of basic community facilities and services;

(B) The importance of the project to the provision of more or better housing for low- and moderate-income households;

(C) The direct impact of the project on the economic development of the applicant's community; or

(D) The degree to which the project will alleviate or remove a serious threat to health or safety; and/or

(E) The degree to which the project develops renewable energy resource systems and/or promotes energy efficiency.

(ii) The quality of the proposed project as measured by factors which may include, but are not limited to the following:

(A) Per capita cost when compared to other similar projects by similar size applicants;

(B) Cost effectiveness through joint tribal or Tribal/community facilities;

(C) Maximum use of existing services, facilities, and resources; or

(D) Retention, expansion, or creation of job opportunities; and/or

(E) Use of national or comparable tribal standards appropriate for the locale.

(3) Rating factors developed in accordance with paragraph (c)(2) of this section shall not result in additional information beyond what is required in the application.

(d) *Final ranking.* The points received for each rating factor by a project are totaled and the projects ranked according to the point totals. Projects are selected for funding based on this final ranking to the extent that funds are available. HUD may select additional projects for funding should one of the higher ranking projects not be funded, or if additional funds become available.

(e) *Competition documentation.* Documentation pertaining to each fiscal year's competition shall be available at each Field Office for applicant review for a period of time to be set by the Field Office (which cannot be less than 30 days).

(f) *Procedural error.* If a Field Office makes a procedural error in the application and selection process that, when corrected, will result in awarding sufficient points to warrant funding of an otherwise eligible applicant, HUD may fund that applicant in the next fiscal year without further competition.

(g) *Set aside selection of projects.* If funds have been set aside by statute for a specific purpose in any fiscal year, other criteria pertinent to the set aside may be used to select projects for funding from the set aside. The selection of projects for set aside funding may be competitive or non-competitive.

§ 571.303 Funding process.

(a) *Notification.* Field Offices will notify applicants of the actions taken regarding their applications. Grant amounts offered may reflect adjustments made by the Field Offices in accordance with § 571.100(b).

(b) *Pre-award requirements.*

(1) Upon notification by HUD of successfully competing for a grant, the applicant shall submit on forms prescribed by HUD the following:

(i) Implementation schedule;

(ii) Certification; and

(iii) Cost information, if changes have occurred or if the Field Office has adjusted the original grant request.

(Approved by the Office of Management and Budget under OMB control number 2506-0043)

(2) Successful applicants may also be required to provide supporting documentation concerning the management, maintenance, operation or financing of proposed projects before a grant agreement can be executed. Applicants will be given at least thirty (30) days to respond to such requirements. In the event that no response or an insufficient response is made within the prescribed time period, the Field Office shall determine that the applicant has not met the requirements and the grant offer will be withdrawn. The Field Offices shall require supporting documentation in those instances where:

(i) Specific questions remain concerning the scope, magnitude, timing, or method of implementing the project; and/or

(ii) The applicant has not provided information verifying the commitment of other resources required to complete, operate or maintain the proposed project.

(Approved by the Office of Management and Budget under OMB control number 2506-0043)

(3) Grant amounts allocated for applicants unable to meet preaward requirements will be offered to the next highest ranking unfunded project.

(4) New projects may not be substituted for those originally proposed in the application.

(c) *Grant award.*

(1) As soon as HUD determines that the applicant has complied with the preaward requirements and nothing has come to the attention of the Field Office which would alter the threshold determinations under § 571.302, the grant will be awarded. These regulations, 24 CFR Part 571, become part of the grant agreement.

(2) All grants shall be conditioned upon the completion of all environmental obligations and approval of release of funds by HUD in accordance with the requirements of Part 58 of this title and, in particular, Subpart J; except as otherwise provided in:

(i) Section 58.33 Emergencies;

(ii) Section 58.34 Exempt activities; or

(iii) Section 58.22 Activities excepted from limitations on the commitment of funds and which are reimbursable under Subpart C of Part 570.

(3) HUD may place other conditions on a grant in which case the grant agreement will be approved, but the obligation and utilization of funds may be restricted in whole or in part. The reasons for the conditional approval and the actions necessary to remove the conditions shall be specified in the grant agreement. Failure to satisfy the conditions may result in a termination of the grant. Conditional approval may be made:

(i) Where the requirements of Part 570, Subpart C, of this title regarding the provision of public services and flood or drainage facilities have not yet been satisfied;

(ii) Pending site and neighborhood standards approval for a proposed housing project, if applicable;

(iii) Pending HUD's approval of the use of Tribal work forces for construction or renovation activities in accordance with § 571.502; or

(iv) Pending resolution of problems with specific projects or of the capability of the grantee to obtain resources needed to carry out, operate or maintain the project.

§ 571.304 Program amendments.

(a) Grantees shall request prior HUD approval for all program amendments involving the alteration of existing activities that will significantly change the scope, location, objective, or class of beneficiaries of the approved activities, as originally described in the application.

(b) Amendment requests shall include the information required under §§ 571.300(f) and 571.303)(b)(1).

(1) Amendments of $10,000 or more shall address all the rating factors of the last rating cycle. Approval is subject to the following:

(i) A rating equal to or greater than the lowest rating received by a funded project during the last rating cycle;

(ii) Capability to promptly complete the modified or new activities;

(iii) Compliance with the requirements of § 571.604 of this title for citizen participation; and

(iv) The preparation of an amended or new environmental review in accordance with Part 58 of this title, if there is a significant change in the scope or location of approved activities.

(2) Amendments of less than $10,000 shall be approved subject to meeting the requirements of paragraphs (b)(1)(ii), (iii), and (iv) of this section.

(3) Amendments which address imminent threats to health and safety shall be reviewed and approved in accordance with the requirements of Subpart E of this Part.

(c) If a program amendment fails to be approved and the original project is no longer feasible, the grant funds proposed for the amendment shall be returned to HUD.

Subpart E—Imminent Threat Grants

§ 571.400 Criteria for funding.

The following criteria apply to requests for assistance under this Subpart:

(a) In response to requests for assistance, the Field Office may make funds available under this Subpart to applicants to alleviate or remove imminent threats to health or safety that require an immediate solution. The urgency and immediacy of the threat shall be independently verified prior to the acceptance of an application. Funds to alleviate imminent threats to health and safety may only be used to deal with threats that are not of a recurring nature, which represent a unique and unusual circumstance, and which impact on an entire service area.

(b) Funds to alleviate imminent threats may be granted only if the applicant can demonstrate to the satisfaction of HUD that other local or federal funding sources cannot be made available to alleviate the threat.

§ 571.401 Application process.

(a) *Letter to proceed.* The Field Office may only issue the applicant a letter to proceed to incur costs to alleviate imminent threats to health and safety if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair, or restoration actions necessary only to control or arrest the effects of imminent threats or physical deterioration. Reimbursement of such costs is dependent upon HUD approval of the application.

(b) *Applications.* Applications shall be submitted in accordance with § 571.300(f) and § 571.303(b). Applications which meet the requirements of these sections may be approved by the Field Office without competition.

§ 571.402 Environmental review.

Pursuant to § 58.34(a)(8) of this title, grants for imminent threats to health or safety are exempt from some or all of the environmental review requirements of Part 58 to the extent provided therein.

§ 571.403 Availability of funds.

Field Offices may set aside up to 15 percent of their allocation of funds under this Part for imminent threat grants. The only funds reserved for imminent threat are those set aside by the Field Office each year. Imminent threat funds which are not awarded before the award of the last Single Purpose grant shall be used for the next highest ranking Single Purpose project. After these funds are depleted, HUD shall not consider further requests for imminent threat grants during that fiscal year.

Subpart F—Grant Administration

§ 571.500 General.

The requirements of Part 570, Subpart J of this title—Grant Administration—apply to grants under this Part except for those provisions that are specifically stated as applying to the Entitlement Cities or Small Cities-HUD administered programs, and with the modifications stated in this subpart.

§ 571.501 Designation of public agency.

One or more Tribal departments or authorities may be designated by the chief executive officer of an Indian Tribe or Alaskan Native Village as the operating agency to undertake activities assisted under this Part. The Indian Tribe or Alaskan Native Village itself, however, shall be the applicant. Designation of an operating agency does not relieve the Indian Tribe or Alaskan Native Village of its responsibility in assuring that the program will be administered in accordance with all HUD requirements, including these regulations.

§ 571.502 Force account construction.

(a) The utilization of Tribal work forces for construction or renovation activities performed as part of the activities funded under this Part shall be approved by HUD before the start of project implementation. In reviewing requests for an approval of force account construction or renovation, HUD may require that the grantee provide the following:

(1) Documentation to indicate that it has carried out or can carry out successfully a project of the size and scope of the proposal;

(2) Documentation to indicate that it has obtained or can obtain adequate supervision for the workers to be utilized;

(3) Information showing that the workers to be utilized are, or will be, listed on the Tribal payroll and are employed directly by an arm, department or other governmental instrumentality of the Tribe or Alaskan Native Village. (Approved by the Office of Management and Budget under OMB control number 2506–0043).

(b) Any and all excess funds derived from the force account construction or renovation activities shall accrue to the grantee and shall be reprogrammed for other activities eligible under this Part in accordance with § 571.304 or returned to HUD promptly.

(c) Insurance coverage for force account workers and activities shall, where applicable, include workman's compensation, public liability, property damage, builder's risk, and vehicular liability.

(d) The grantee shall specify and apply reasonable labor performance, construction or renovation standards to work performed under the force account.

(e) The contracting and procurement standards set forth in OMB Circular A-102 apply to material, equipment, and supply procurements from outside vendors under this section, but not to other activities undertaken by force account.

§ 571.503 Indian preference requirements.

(a) *Applicability.* HUD has determined that grants under this Part are subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), which requires that to the greatest

extent feasible: (1) Preference and opportunities for training and employment shall be given to Indians, and (2) Preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

(b) *Definitions.* Indian organizations and Indian-owned economic enterprises include both:

(1) Any "economic enterprise" as defined in Section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93–262); that is, "any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership and control shall constitute not less than 51 percent of the enterprise"; and

(2) Any "tribal organizations" as defined in Section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638); that is, "the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organizations and which includes the maximum participation of Indians in all phases of its activities."

(c) *Preference in administration of grant.* To the greatest extent feasible, preference and opportunities for training and employment in connection with the administration of grants awarded under this Part shall be given to Indians and Alaskan Natives.

(d) *Preference in contracting.* To the greatest extent feasible, grantees shall give preference in the award of contracts for projects funded under this Part to Indian organizations and Indian-owned economic enterprises.

(1) Each grantee shall:

(i) Advertise for bids or proposals limited to qualified Indian organizations and Indian-owned enterprises; or

(ii) Use a two-stage preference procedure, as follows:

(A) Stage 1: Invite or otherwise solicit Indian-owned economic enterprises to submit a statement of intent to respond to a bid announcement limited to Indian-owned firms.

(B) Stage 2: If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian-owned economic enterprises; or

(iii) Develop, subject to HUD Field Office one-time approval, the grantee's own method of providing preference.

(2) If the method of providing preference selected by the grantee results in fewer than two qualified Indian organizations or Indian-owned enterprises submitting a statement of intent, bid or proposal, then the grantee shall:

(i) rebid the contract, using any of the methods described in paragraph (1) above; or

(ii) rebid the contract without limiting the advertisement for bids or proposals to Indian organizations and Indian-owned economic enterprises; or

(iii) if one approvable bid is received, request Field Office review and approval of the proposed contract and related procurement documents, in accordance with Attachment O of OMB Circular A–102, in order to award the contract to the single bidder.

(3) Procurements that are within the dollar limitations established for small purchases under Attachment O of OMB Circular A–102 need not follow the formal bid procedures of paragraph (d) of this section, since these procurements are governed by the small purchase procedures of Attachment O. However, a grantee's small purchase procurements shall, to the greatest extent feasible, provide Indian preference in the award of contracts.

(4) All preferences shall be publicly announced in the advertisement and bidding solicitation and the bidding documents.

(5) A grantee, at its discretion, may require information of prospective contractors seeking to qualify as Indian organizations or Indian-owned economic enterprises; however, this information need not be submitted to HUD. Thus, prospective contractors may be required by grantees to submit with or prior to submission of a bid or proposal:

(i) Evidence showing fully the extent of Indian ownership, control, and interest;

(ii) Evidence of structure, management and financing affecting the Indian character of the enterprise, including major subcontracts and purchase agreements; materials or equipment supply arrangements; and management salary or profit-sharing arrangements; and evidence showing the effect of these on the extent of Indian ownership and interest; and

(iii) Evidence sufficient to demonstrate to the satisfaction of the grantee that the prospective contractor has the technical, administrative, and financial capability to perform contract work of the size and type involved.

(6) The grantee shall incorporate the following clause (referred to as a section 7(b) clause) in each contract awarded in connection with a project funded under this part:

(i) The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) (Indian Act). Section 7(b) requires that to the greatest extent feasible (A) preferences and opportunities for training and employment shall be given to Indians and (B) preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

(ii) The parties to this contract shall comply with the provisions of section 7(b) of the Indian Act.

(iii) In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians and Alaskan Natives.

(iv) The contractor shall include this section 7(b) clause in every subcontract in connection with the project, and shall, at the direction of the grantee, take appropriate action pursuant to the subcontract upon a finding by the grantee or HUD that the subcontractor has violated the section 7(b) clause of the Indian Act.

(e) *Additional Indian preference requirements.* A grantee may, with prior HUD approval, provide for additional Indian preference requirements as conditions for the award of, or in the terms of, any contract in connection with a project funded under this Part. The additional Indian preference requirements shall be consistent with the objectives of the section 7(b) clause of the Indian Act and shall not result in a significantly higher cost or greater risk of non-performance or longer period of performance.

Subpart G—Other Program Requirements

§ 571.600 General.

The following requirements of Part 570, Subpart K, of this title—Other Program Requirements—apply to grants under this Part.

(a) Section 570.605 National Flood Insurance Program.

(b) Section 570.608 Lead-based paint.

(c) Section 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.

(d) Section 570.610 Uniform administrative requirements and cost principles.

(e) Section 570.611 Conflict of interest.

§ 571.601 Nondiscrimination.

(a) Under the authority of section 107(a)(2) of the Act, the Secretary waives the requirement that recipients comply with Section 109 of the Act except with respect to the prohibition of discrimination based on age or against an otherwise qualified handicapped individual.

(b) A recipient shall comply with the provisions of Title II of Pub. L. 90–284 (24 U.S.C. 1301—the Indian Civil Rights Act) in the administration of a program or activity funded in whole or in part with funds made available under this Part. For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient; and "Funded in whole or in part with funds made available under this Part" means that community development funds in any amount have been transferred by the recipient to an identifiable administrative unit and disbursed in a program or activity.

§ 571.602 Relocation and acquisition.

(a) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), hereinafter referred to as the Uniform Act, and HUD implementing regulations at Part 42 of this title apply to any acquisition of real property by a State agency (defined at 24 CFR 42.85) that is carried out for an activity assisted under this Part and to the displacement of any family, individual, business, non-profit organization, or farm that results from such acquisition.

(b)(1) Any acquisition of real property by a "State agency" and any displacement resulting from such acquisition of real property shall be considered to be an activity assisted under the Community Development Block Grant program and be subject to the regulations at Part 42 of this title if the acquisition occurs on or after the date of the submission of the application requesting federal financial assistance which is granted. However, if the grantee determines that an acquisition or displacement was not carried out for an assisted activity, and the Field Office concurs in the determination, such acquisition or displacement shall not be subject to these regulations. The grantee's request for HUD concurrence shall include its certification that at the time of the acquisition it did not intend to use the property for an assisted activity along with appropriate documentation to establish that fact.

(2) With respect to acquisitions for projects assisted under this Part that are not within the purview of the Uniform Act, the grantee shall:

(i) Provide each property owner a written offer of the amount determined to be just compensation for the property. Just compensation shall be based upon one or more appraisals of the fair market value of the property as prepared by a qualified appraiser. However, this provision shall not prevent a person from donating real property if, prior to the donation, he/she has been fully informed of his/her right to receive just compensation;

(ii) Provide HUD the opportunity to review any acquisition price established pursuant to Paragraph (b)(2)(i) of this section prior to compensation being paid to the seller;

(iii) Include in the applicable case file a justification for the acquisition payment in any case in which such payment exceeds the fair market value of the property.

(c)(1) The cost of relocation payments and assistance under Title II of the Uniform Act shall be paid from funds provided by this Part and/or such other funds as may be available to the grantee from any other source.

(2) With respect to other displacement-causing activities that are assisted under this Part but are not within the purview of the Uniform Act, the grantee shall adopt a uniform written policy for providing relocation payments and other assistance to ensure that displaced families and individuals obtain a safe and habitable replacement dwelling and that all persons, including families, individuals, business, nonprofit organizations and farm operations, are reimbursed for all moving and related expenses, including utility hook-up and storage costs. That policy shall also provide that:

(i) No occupant of a dwelling shall be required to move permanently from the dwelling, unless first given reasonable opportunity to relocate to a safe and habitable replacement dwelling at a monthly housing cost, including utilities, that does not exceed 30 percent of his/her gross income;

(ii) All families, individuals, business, nonprofit organizations, and farm operations to be displaced shall be provided advance information sufficient to enable them to fully understand the reason for their displacement and the relocation payments and other assistance to which they are entitled under these regulations;

(iii) In any case in which the occupant of a dwelling is required to relocate for a temporary period in order to permit rehabilitation or demolition, the temporary relocation shall not exceed 12 months in duration, a safe and habitable dwelling shall be available to the person for the period of the temporary relocation, and the grantee shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the person in connection with the temporary relocation.

§ 571.603 Labor standards.

(a) In accordance with the authority under section 107(d)(2) of the Act, the Secretary waives the provisions of section 110 of the Act (Labor Standards) with respect to this Part, including the requirement that laborers and mechanics employed by the contractor or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Part be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

(b) This waiver does not permit the grantee to set wage rates for projects funded under this part which would be considered excessive for other similar projects funded by the Tribe or another federal entity. HUD will periodically review wage rates and take appropriate corrective action should wage rates be found to be excessive.

§ 571.604 Citizen participation.

(a) In order to permit members of Indian Tribes and Alaskan Native Villages to examine and appraise the applicant's application for funds under this Part, the applicant shall follow traditional means of citizen involvement which, at the least, include the following:

(1) Furnishing members information concerning amounts of funds available for proposed community development and housing activities and the range of activities that may be undertaken;

(2) Holding one or more meetings to obtain the views of members on community development and housing needs. Meetings shall be scheduled in ways and at times that will allow participation by members.

(3) Developing and publishing or posting the community development statement in such a manner as to afford affected members an opportunity to examine its contents and to submit comments;

(4) Affording members an opportunity to review and comment on the applicant's performance under any active community development block grant.

(b) Prior to submission of the application to HUD, the applicant shall

certify by an official tribal resolution that it has met the requirements of paragraph (a) of this section, and

(1) Considered any comments and views expressed by members and, if it deems appropriate, modified the application accordingly.

(2) Made the modified application available to members.

(c) No part of this requirement shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of the grant. Accordingly, the citizen participation requirements of this paragraph do not include concurrence by any person or group in making final determinations on the contents of the application.

§ 571.605 Environment.

In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of Federal law which further the purposes of such Act (as specified in 24 CFR 58.5) are most effectively implemented in connection with the expenditure of block grant funds, the recipient shall comply with the Environment Review Procedures for the Community Development Block Grant Program (24 CFR Part 58). Upon completion of the environmental review, the recipient shall submit a certification and request for release of funds for particular projects in accordance with 24 CFR Part 58.

§ 571.606 Housing assistance.

In those instances where a Tribe has established an Indian Housing Authority and has obtained housing assistance from HUD, its compliance with the resolution set out in 24 CFR 805, Subpart A, Appendix I, Article VIII will be a performance consideration under the Indian CDBG program.

Subpart H—Program Performance

§ 571.700 Reports to be submitted by grantee.

Grant recipients shall submit an annual status report of progress made on previously funded open grants at a time determined by the Field Office. The status report shall be in narrative form addressing three areas:

(a) *Progress.* The progress in completing activities, the work remaining, changes in the implementation schedule and a breakdown of funds expended on each approved project;

(b) *Grantee assessment.* Description of the effectiveness of funded activities in meeting the recipient's community development need; and

(c) *Environment.*

(1) Compliance with the conditions under § 58.34 of this title for exempt projects; and

(2) If appropriate, environmental reviews of emergency projects under § 58.33 of this title.

(Approved by the Office of Management and Budget under OMB control number 2506-0043)

§ 571.701 Review of recipient's performance.

(a) *Objective.* HUD will review each recipient's performance to determine whether the recipient has achieved the following:

(1) Complied with the requirements of the Act, this Part, and other applicable laws and regulations;

(2) Carried out its activities substantially as described in its application;

(3) Made substantial progress in carrying out its approved program;

(4) A continuing capacity to carry out the approved activities in a timely manner; and

(5) The capacity to undertake additional activities funded under this Part.

(b) *Basis for review.* In reviewing each recipient's performance, HUD will consider all available evidence which may include, but not be limited to, the following:

(1) The approved application and any amendments thereto;

(2) Reports prepared by the recipient;

(3) Records maintained by the recipient;

(4) Results of HUD's monitoring of the recipient's performance, including field evaluation of the quality of the work performed;

(5) Audit reports;

(6) Records of drawdowns on the Letter of Credit;

(7) Records of comments and complaints by citizens and organizations; and

(8) Litigation.

§ 571.702 Corrective and remedial actions.

(a) *General.* One or more corrective or remedial actions will be taken by HUD when, one the basis of the performance review, HUD determines that the recipient has not achieved the following:

(1) Complied with the requirements of the Act, this Part, and other applicable laws and regulations, including the environmental responsibilities assumed under Section 104(f) of Title I of the Act;

(2) Carried out its activities substantially as described in its applications;

(3) Made substantial progress in carrying out its approved program; or

(4) Shown the continuing capacity to carry out its approved activities in a timely manner.

(b) *Action.* The action taken by HUD will be designed, first, to prevent the continuance of the deficiency; second, to mitigate any adverse effects or consequences of the deficiency; and third, to prevent a recurrence of the same or similar deficiencies. The following actions may be taken singly or in combination, as appropriate for the circumstances:

(1) Request the recipient to submit progress schedules for completing approved activities or for complying with the requirements of this part;

(2) Issue a letter of warning advising the recipient of the deficiency (including environmental review deficiencies and housing assistance deficiencies), describing the corrective actions to be taken, establishing a date for corrective actions, and putting the recipient on notice that more serious actions will be taken if the deficiency is not corrected or is repeated;

(3) Advise the recipient that a certification of compliance will no longer be acceptable and that additional information or assurances will be required;

(4) Advise the recipient to suspend, discontinue, or not incur costs for the affected activity;

(5) Advise the recipient to reprogram funds from affected activities to other eligible activities, provided that such action shall not be taken in connection with any substantial violation of Part 58 and provided that such reprogramming is subjected to the environmental review procedures of Part 58 of this title;

(6) Advise the recipient to reimburse the recipient's program account or Letter of Credit in any amounts improperly expended;

(7) Change the method of payment from a Letter of Credit basis to a reimbursement basis; and/or

(8) Suspend the Letter of Credit until corrective actions are taken.

§ 571.703 Reduction or withdrawal of grant.

(a) *General.* A reduction or withdrawal of a grant under paragraph (b) of this section will not be made until at least one of the corrective or remedial actions specified in § 571.702(b) has been taken and only then if the recipient has not made an appropriate and timely response. Prior to making such grant reduction or withdrawal, the recipient shall also be notified and given an opportunity within a prescribed time for an informal consultation regarding the proposed action.

(b) *Reduction or withdrawal.* When the Field Office determines, on the basis of a review of the grant recipient's performance that the objectives set forth in § 571.701(a) have not been met, the Field Office may reduce or withdraw the grant, except that funds already expended on eligible approved activities shall not be recaptured.

§ 571.704 Other remedies for noncompliance.

(a) *Secretarial actions.* If the Secretary finds a recipient has failed to comply substantially with any provision of this Part even after corrective actions authorized under § 571.702 have been applied, the following actions may be taken provided that reasonable notice and opportunity for hearing is made to the recipient. (The Administrative Procedure Act (5 U.S.C. § 551. et seq.), where applicable, shall be a guide in any situation involving adjudications where the Secretary desires to take actions requiring reasonable notice and opportunity for hearing.)

(1) Terminate the grant to the recipient;

(2) Reduce the grant to the recipient by an amount equal to the amount which was not expended in accordance with this Part; or

(3) Limit the availability of funds to projects or activities not affected by such failure to comply; provided, however, that the Secretary may on due notice revoke the recipient's Letter of Credit in whole or in part at any time if the Secretary determines that such action is necessary to preclude the further expenditure of funds for activities affected by such failure to comply.

(b) *Secretarial referral to the Attorney General.* If there is reason to believe that a recipient has failed to comply substantially with any provision of the Act, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Part which was not expended in accordance with it, or for mandatory or injunctive relief.

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 30, 1984.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 84-23667 Filed 9-6-84; 8:45 am]

BILLING CODE 4210-29-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures Payments for Acquisition of Improvements

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: This notice adopts regulations to allow payment, under limited circumstances, for habitations and other improvements acquired by the Commission pursuant to 25 U.S.C. 640d-14. This action is necessary because Pub. L. 93-531, the Navajo and Hopi Indian Relocation Act, makes no provision for any payments other than moving expenses and incentive bonuses. The adoption of these regulations will allow the Commission to take final action on certain unresolved claims for relocation benefits which cannot be closed within the current regulatory structure.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002. Telephone No.: (602) 779-2721.

SUPPLEMENTARY INFORMATION: The principal author of this rulemaking is E. Susan Crystal, Attorney at Law, of the Navajo and Hopi Indian Relocation Commission.

The following is an analysis of the comment received.

Comment was received from the Hopi Tribe questioning the Commission's legislative authority to pay for improvements and also indicating that no payments should be made to persons who moved into the disputed area after December 22, 1973. The portion of the comment which suggested no payments to persons who moved into the area after December 22, 1973 was incorporated into the final rule.

Comment was received from the Navajo Tribe's Department of Justice generally stating that the Commission should pay for all properties owned by individual Navajos regardless of whether or not they are eligible for relocation. This was not incorporated into the final rule. The Justice Department suggested that District Six evictees be paid for improvements. This comment was not incorporated into the final rule. The Justice Department also suggested that ownership disputes be resolved by Tribal Courts. This comment was not appropriate to incorporate into this final rule, however, it has and will be Commission policy to refer such disputes to Tribal Court.

The Navajo-Hopi Legal Services Program commented that the Commission should pay for improvements without requiring the owners to go through the application and denial process. This was not incorporated into the final rule. This commentor made several other suggestions which were irrelevant to the proposed rule.

List of Subjects in 25 CFR Part 700

Administrative practice and procedure, Conflict of interests, Freedom of information, Grant program—Indians, Indian claims, Privacy, Real property acquisition, Relocation assistance.

PART 700—[AMENDED]

Accordingly, the Commission amends Subpart B of Part 700 by adding § 700.127 to read as follows:

Subpart B—Acquisition and Disposal of Habitation and/or Improvement

§ 700.127 Payments for Acquisition of Improvements.

Payments for acquisition of improvements shall be made in the following situations:

(a) To individuals who have been denied benefits under these rules and who can prove ownership of habitations and improvements on land partitioned to the tribe of which they are not members. If the owner is deceased the payment shall be made to his or her estate. Payments under this subsection are further limited by 25 U.S.C. 640d-14(c), Pub. L. 93-531, section 15(c).

(b) To individuals who have been certified as eligible for relocation benefits but who at the time of certification, own a decent, safe and sanitary dwelling as determined by the Commission pursuant to Section 700.187 and who own habitation and improvements on land partitioned to the tribe of which they are not members.

Ownership shall be determined on the basis of Commission appraisal records at the time of the initial eligibility determination.

(25 U.S.C. 640d, Pub. L. 93-531, 25 U.S.C. 640d-14, Pub. L. 96-305)

Ralph A. Watkins, Jr.,

Chairman, Navajo Hopi Indian Relocation Commission.

[FR Doc. 84-23689 Filed 9-6-84; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83-13; Notice 2]

Federal Motor Vehicle Safety Standards; Motorcycle Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to amend Safety Standard No. 123, *Motorcycle Controls and Displays*, to allow greater flexibility in mounting the manual fuel control shut off valve. This action is taken pursuant to a grant of a petition for rulemaking and a notice of proposed rulemaking published on September 6, 1983 (48 FR 40286). Its primary benefit is that it will relieve a current design restriction which is deemed no longer necessary for motor vehicle safety.

EFFECTIVE DATE: Effective October 9, 1984.

ADDRESS: Petitions for reconsideration should refer to the docket number and notice number and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ken Rutland, Office of Vehicle Safety Standards, NHTSA, Washington, D.C. 20590 (202-426-2154).

SUPPLEMENTARY INFORMATION: Table 1 of Standard No. 123 specifies that the manual fuel shut off control have the following modes of operation: "Off", with the control forward, "On", with the control downward, and "Reserve" (if provided), with the control upward. No requirements are specified for the location of the control. However, Standard No. 123 has generally been interpreted as requiring control rotation around a transverse axis.

In March 1981 Bajaj Auto Ltd. asked NHTSA for an "exemption" from this requirement in order to mount its fuel shut off control so that it could be rotated around a longitudinal axis. In establishing the original operational modes, NHTSA had justified them by stating that in the event of a crash there was a greater likelihood that the control would be carried forward by inertia to the "off" position, thereby shutting off the fuel. In Bajaj's opinion, this effect would be unlikely except in the most severe collisions because of the low weight of the operating control lever, and the tightness of the control valve necessary to guard against inadvertent closure of the control in normal operation. After deliberation, and its own informal investigation, the agency concurred with Bajaj's reasoning and decided to treat Bajaj's request as a petition for rulemaking. Bajaj was informed of this decision in 1982.

The agency tentatively decided that motor vehicle safety through standardization of controls is best served in this instance by retaining the relationships of the control positions to each other while allowing the manufacturer to place the control so that it may operate in its required positions around either a longitudinal or transverse axis. It was proposed that when the control is rotated around a longitudinal axis, the "off" position shall be "horizontal" with the other positions downward for "on" and upward for "reserve on". In the horizontal position, the control can be pointing either to the right or left.

Comments were received from American Honda Motor Co., Japan Automobile Manufacturer's Association (JAMA), Kawasaki Motors Corp., USA, and BMW Bikers of Metropolitan Washington. The manufacturers supported the proposal, and requested further amendments responsive to rotation about a vertical axis. BMW Bikers urged the agency to consider the potential hazards that might result were the control relocated so far inboard as to be difficult to reach and manipulate.

More specifically, a request was made that Standard No. 123 be amended to allow future designs of manual shut-off valves that would be rotational around a vertical axis. Kawasaki recommended that rotation be allowed around any axis. It was also recommended that the rotational axis be allowed to vary by plus or minus 30 degrees, as the exact axis of rotation (zero degrees) may be difficult to achieve because of the shape of the fuel tank and other vehicle components.

The agency has reviewed these requests and believes that they have merit as relief of design restrictions. However, the proposal did not ask for comments on the advisability of rotation around a vertical axis, or on a 30 degree tolerance. Therefore, the standard is being amended in the manner specified in the proposal.

With respect to the concern expressed by BMW Bikers, it is true that mounting the control around the longitudinal axis might make it awkward to reach and difficult to operate, but the agency does not believe that any manufacturer will change its current design in a manner that would make it less appealing to the consumer. The new location does represent a convenient location for motorscooters such as are manufactured by the petitioner.

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. The rule imposes no additional requirements but permits manufacturers greater flexibility in locating the control concerned.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule will have no effect on the human environment since the weight and quantity of materials used in the manufacture of motorcycles is not changed. No impact on safety is anticipated.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities, and no initial regulatory flexibility analysis has been prepared. Manufacturers of motorcycles, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be significantly affected since the price of new motorcycles will be minimally impacted.

Because the amendment relieves a restriction, is optional in nature, and furthers international harmonization, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest, and the amendment is effective 30 days after publication in the Federal Register.

The engineer and lawyer primarily responsible for the development of this rule are Ken Rutland and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

§ 571.123 [Amended]

In consideration of the foregoing, the operation requirements for the manual fuel shut off control (item 7) in Column 3 of Table 1 of 49 CFR 571.123, Motor Vehicle Safety Standard No. 123, are revised to read as follows:

"On"—Control downward.

"Off"—Control forward (if control rotates around a transverse axis) or Horizontal—Left or Right (if control rotates around a longitudinal axis).

"Reserve On"—(if provided) Control upward.

(Secs. 103, 119, Pub. L. 87–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on August 31, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84-23719 Filed 9-6-84; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 49, No. 175
Friday, September 7, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Concerning the Definition of "Inedible Kernel" and Quality Control

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to: (1) Add a new section to the administrative rules and regulations established under the Federal marketing order for California almonds to modify the definition of "inedible kernel" contained in the order, and (2) change the quality control provisions of the administrative rules and regulations by lowering the tolerance for inedible almonds from one percent to zero percent. These changes would improve the quality of California almond shipments.

DATE: Comments must be received by September 24, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Frank M. Grasberger has determined that this proposal should be published with less than a 30-day comment period. The changes in this proposal should apply to 1984 crop almonds which handlers will be receiving and processing soon. Therefore, handlers need to know as soon as possible what the basis will be for determining their inedible disposition obligations so that they can plan their processing and marketing operations accordingly.

This proposal would add a § 981.408 to Subpart—Administrative Rules and Regulations (7 CFR 981.401-981.474; 49 FR 19798), and revise § 981.442(a)(4) of the Subpart—Administrative Rules and Regulations. Section 981.408 would be issued pursuant to § 981.8 of the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal is based on three unanimous recommendations of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.8 of the order defines "inedible kernel" as a "kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing." The term "inedible kernel" is used in the quality control provisions of the order. The objective of these provisions is to separate "inedible kernels" from "edible kernels" and dispose of the inedible kernels for use in products such as almond oil and animal feed. Section 981.8 also provides that the definition of "inedible kernels" "may be modified by the Board with the approval of the Secretary: *Provided,* That the Board shall submit any recommendation for modification to the Secretary not later than August 1." The recommendations were made by the Board at its July 25, 1984, meeting and submitted to the Secretary of Agriculture's authorized representative on July 30, 1984.

It is proposed to add § 981.408 to the administrative rules and regulations established under the order to modify the definition of "inedible kernels" in § 981.8 in two ways. First, the words "or other foreign material" would be added after "embedded dirt." This proposed change is intended chiefly to eliminate the problem of embedded shell in almond kernels. The second change would add the words "or has internal discoloration" after "not easily removed by washing." Discoloration is a darkening of an almond kernel's interior, and usually results when almond lots have excessive moisture and are subject to high temperatures, such as during storage or drying. the interior of an almond kernel normally is cream-colored, whereas a discolored kernel would be yellowish-brown, or brown in serious cases.

Section 981.442(a)(4) of the administrative rules and regulations currently requires the weight of inedible kernels in each variety in excess of one percent of the kernel weight received by handlers to be reported to the Board. This weight must be accumulated during processing and delivered to the Board or Board-accepted crushers, feed manufacturers, or feeders.

It is proposed to revise § 981.442(a)(4) by lowering the tolerance for calculating a handler's disposition obligation from one percent to zero percent. Therefore, a handler's disposition obligation would be equal to the weight of inedible kernels in each variety of almonds received by such handler.

All of the changes proposed by this action are intended to provide a higher quality product to almond users and consumers. This action would allow for stricter quality control while still maintaining ample supplies of almonds to meet trade demand. The industry has the capability of implementing such stricter control due to improvements in crop quality and in almond processing equipment.

List of Subjects in 7 CFR Part 981

Marketing Agreements and Orders, Almonds, California.

PART 981—[AMENDED]

Therefore, it is proposed to add § 981.408 and amend § 981.442(a)(4) of

Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) as follows:

1. Add a new § 981.408 reading as follows:

§ 981.408 Inedible kernel.

Pursuant to § 981.8, the definition of "inedible kernel" is modified to mean a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt or other foreign material not easily removed by washing, or has internal discoloration.

§ 981.442 [AMENDED]

2. Amend § 981.442(a)(4) by changing "one percent" to "zero percent."

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

Dated: September 4, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-23742 Filed 9-6-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1079

Milk in the Iowa Marketing Area; Termination of Proceeding on Proposed Temporary Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed temporary revision of rule.

SUMMARY: This action terminates a proceeding on a proposal to reduce temporarily the pooling standards for supply plants regulated by the Iowa Federal milk order. The proposal, which would reduce the shipping requirement for the months of September, October, and November 1984 from 35 percent to 25 percent, was made by the operator of a pool supply plant. A cooperative association representing a substantial number of the producers on the market submitted views and arguments opposing the temporary revision, and in addition, submitted a proposal to temporarily increase the supply plant shipping requirement by 10 percentage points for the same period. The Department has concluded that it will not temporarily reduce the shipping requirement for supply plants as proposed.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Proposed Temporary Revision of Shipping Percentage: Issued August 9, 1984; published August 15, 1984 (49 FR 32598).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (49 FR 32598) concerning a proposed decrease in the shipping requirement for pool supply plants for the months of September, October, and November 1984. Interested parties were afforded 7 days in which to comment on the proposal by submitting written data, views, or arguments. Comments were received from two interested parties.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1079.7(b) should not be revised and shall remain at 35 percent for the months of September, October, and November 1984.

Beatrice Companies, Inc. (Beatrice), on behalf of Beatrice Cheese which operates a supply plant regulated by the Iowa order, requested a temporary reduction in the supply plant shipping requirement of 10 percentage points. Beatrice stated that producer receipts under the Iowa order since January 1, 1984, are practically unchanged from the previous year, when a similar action was taken, and that Class I utilization has remained fairly constant. Because the distributing plants that Beatrice supplies anticipate having a sufficient supply of milk for their Class I needs this fall without increased shipments, Beatrice said that there will be no need to ship as much as 35 percent of their producer receipts and that a temporary lowering of the supply plant shipping requirement, to a 25 percent shipping standard, is needed to prevent uneconomic shipments of fluid milk during September, October, and November 1984.

The Farmers Union Milk Marketing Cooperative (FUMMC) submitted a letter supporting the temporary revision of the supply plant shipping percentage provision as proposed by Beatrice. FUMMC represents about 9.5 percent of the producers under the Iowa order, and is a marketing and bargaining association. FUMMC does not operate any pool plants under the order.

Mid-America Dairymen, Inc. (Mid-Am), the second largest cooperative in the Iowa order market, representing about 18 percent of the Iowa order producers, opposed the reduction. Mid-Am stated that the supply-demand relationship in 1984 is greatly different from that which existed a year ago. Mid-Am cited lower uniform prices, larger milk production costs, and the Milk Diversion Program as primary contributors to the decrease in the Iowa order producer milk supply. Concerning demand, Mid-Am stated that producer milk in Class I has been increasing since January 1984, and that a continual improvement in Class I sales for the remainder of 1984 most likely will result due to the National Research and Promotion Program and an improved economy. Mid-Am, therefore, argued that the supply-demand conditions this fall will justify an increase in the shipping requirements instead of the decrease proposed by Beatrice.

In addition, Mid-Am said that if milk is not available from Iowa pool supply plants due to reduced shipping requirements, then Iowa distributing plants may have to rely on Federal order milk from Minnesota and Wisconsin, and thus be subject to, along with the class prices of the milk, over-order prices and freight costs to the Iowa distributing plants, which collectively are considerably higher than Iowa class prices. Mid-Am contends that Iowa distributing plants should not have to incur these costs, because without a reduction in the shipping requirement, as proposed by Beatrice, Iowa pool milk would be available in sufficient amounts to meet the fluid needs of the market.

Certain factors have affected the supply-demand relationship in the Iowa market since the beginning of 1984, which make this year different from past years. In an effort to reduce the dairy surplus on a national level, Congress, on December 1, 1983, authorized a 50 cent per hundredweight reduction of the price support level for milk. The result of the 50 cent cut for producers under the Iowa order has been a lower uniform price, which for January through June 1984 was 38 cents per hunderedweight below that of the same period in 1983.

Also contributing to the downward pressure on the supply of milk this year are production costs, which have been greater in 1984 than in 1983, (the price of 16-percent-feed has been increased 10.5 percent in the January–July 1984 period over the 1983 cost).

One further factor affecting the supply of milk on the market has been the Dairy Diversion Program, which involves 22 percent of the dairy operations in Iowa.

The result of the reduced producer receipts, the increased costs of production, and the Diversion program has been a downward trend in producer milk under the Iowa order in 1984 as compared to 1983, as well as a decrease in total milk production (down 4.9 percent) for the State of Iowa. In February, producer milk was 1.5 percent below February 1983 production on a daily basis, and down 2.0 percent in March, 0.5 percent in April, 2.5 percent in June, and 3.6 percent in July. These decreases ocurred while the number of producers under the Iowa order increased over 1983 figures. (in April 1984 there was one less producer, and in May 1984 an increase in producer numbers of 234 caused a disruption in the downward trend).

On the demand-side, Class I disposition under the Iowa order increased in each of the first seven months of 1984 as compared to the same months in 1983. In January 1984, the increase in pounds of milk for Class I use was 5.6 percent, in February up 7.4 percent, up 9.4 percent in March, 0.8 percent in April, 8.3 percent in May, 7.6 percent in June, and 4.8 percent in July. For the first six months of 1984, Class I disposition was 29.9 percent, and this figure will most likely increase for the remainder of 1984.

In September, October, and November 1983, when a temporary downward revision of the supply plant shipping requirement was granted, (from 35 percent to 25 percent), Class I disposition under the Iowa order was 33.6 percent, 33.5 percent, and 33.8 percent, respectively. And, the requesting supply plant, Beatrice, in September through November 1983, shipped more than the required percentage of their producer receipts to pool distributing plants.

If Class I disposition continues to be greater in 1984 than it was in 1983, while at the same time milk production decreases, then a reduction in the supply plant shipping percentage for September, October, and November 1984 would not appear to be warranted. It is not clear that the current supply plant shipping percentage will cause uneconomic shipments of milk.

In view of the above circumstances, it is concluded that the supply plant shipping requirement should not be revised for the months of September, October, and November 1984. Accordingly, the proceeding begun on this matter on August 9, 1984, is hereby terminated.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C., on September 4, 1984.

Edward T. Coughlin,

Dairy Division.

[FR Doc. 84–23744 Filed 9–6–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–AWA–1]

Proposed Alteration of VOR Federal Airways; Montgomery, AL

Correction

In FR Doc. 84–22186 beginning on page 33274 of the issue of August 22, 1984, make the following correction on page 33275.

In the first column, fourth line of the first paragraph "(323° M)" should be "(324° M)".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–235 (Colorado–39)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendatios of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulations contains the recommendations of the State of Colorado that the Niobrara Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on October 19, 1984.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 19, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

Proposed Rulemaking By Director, OPPR

High-Cost Gas Produced from Tight Formations; (Docket No. RM79–76–235 (Colorado–39)).

Issued: September 4, 1984.

I. Background

On August 22, 1984, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Niobrara Formation located in Larimer and Weld Counties, Colorado, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Colorado's recommendation that the Niobrara Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended area is located within the Denver-Julesberg Basin and surrounds the city of Greeley, Colorado, to the north, east and west. The recommended formation underlies approximately 135,040 acres in Larimer and Weld Counties, Colorado, and has an average gross thickness of 300 feet. The average depth to the top of the Niobrara Formation is 6,900 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–44, Order No.

NG–44–1 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingy, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Colorado that the Niobrara Formation as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation under § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 19, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–235 (Colorado–39), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they want to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than September 19, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Colorado's recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(205) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(205) *Niobrara Formation in Colorado.* RM79–76–235 (Colorado–39).

(i) *Delineation of formation.* The Niobrara Formation is located in Weld County, Colorado, in Township 4 North, Range 66 West, 6th P.M., Sections 2 through 10, and 15 through 18, Township 5 North, Range 64 West, 6th P.M., Sections 1 through 24, Township 5 North, Range 65 West, 6th P.M., Section 1; Township 5 North, Range 66 West, 6th P.M., Sections 2 through 11, and 14 through 35; Township 5 North, Range 67 West, 6th P.M., Sections 1 through 3, 11 through 14, 23 and 24; Township 6 North, Range 64 West, 6th P.M., Sections 7, and 13 through 36; Township 6 North, Range 65 West, 6th P.M., Sections 7 through 31, and 34 through 36; Township 6 North, Range 66 West, 6th P.M., Sections 6 through 36; Township 6 North, Range 67 West, 6th P.M., all Sections; and in Larimer County, Colorado, in Township 6 North, Range 68 West, 6th P.M., Sections 1 and 2, 11 through 14, 23 through 26, 35 and 36.

(ii) *Depth.* The Niobrara Formation is defined as that interval which begins at a depth of approximately 6,900 feet and varies in thickness from 280 feet to 320 feet.

[FR Doc. 84–23766 Filed 9–6–84; 8:45 am]

BILLING CODE 6717–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

Federal Information Resources Management Regulation (FIRMR); Publication of Integrated Provisions

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of proposed rulemaking and availability of drafts of Block "B" segments.

SUMMARY: This notice announces the availability of the Block B portion of the proposed integrated text to be published as Amendment 1 to the FIRMR. No changes will be made in authorities, policies, or procedures from those contained in codified portions of the Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR) from which the provisions are derived. Nevertheless, users may desire to become acquainted with the manner in which the integration is made. While comment and review is not solicited, all comments and suggestions received will be considered.

DATES: Any comments on the proposed provisions should be submitted in writing to the Policy Branch, OIRM at the address shown below within 30 days of the publication date of this notice in the **Federal Register**. FIRMR Block B and the applicable FIRMR Part number must be cited in all correspondence related to this notice.

ADDRESS: Comments should be submitted to the General Services Administration, KMPP, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Leticia Boddie, Policy Branch, Office of Information Resources Management, telephone 202 566–0194 or FTS, 566–0194. A single copy of any of the parts comprising Block B are available upon request; please specify the part(s) desired.

SUPPLEMENTARY INFORMATION: GSA has established (49 FR 20994, May 17, 1984) the FIRMR to provide a single regulation for use by Federal agencies governing certain of their information activities. Text was published for only Part 201–1. An amendment to the FIRMR is under development to publish an integrated FIRMR text for codified Federal Procurement Regulations (41 CFR Subparts 1–4.11, 1–4.12, and 1–4.13) and Federal Property Management Regulations (41 CFR Parts 101–35, 101–36, 101–37). The second of four blocks of integrated FIRMR text has been drafted. Block B consists of four FIRMR parts.

Each part includes derivation and distribution tables relating FIRMR sections to FPR/FPMR sources. Block B also includes four temporary regulation actions to present temporary provisions changed to be consistent with the integrated text.

The parts in Block B are—

Part 201–20—ADP Management Programs
Part 201–24—Acquisition Policies
Part 201–30—Management of ADP Resources
Part 201–32—Contracting for ADP Resources

The proposed temporary regulations in Block B are—

Proposed Supp. 1 to Temp. Reg. 1
Proposed Temp. Reg. *1CITE* (Reissue of FPMR Temp. Reg. F–499 provisions)
Proposed Temp. Reg. *6CITE* (Reissue of FPR Temp. Reg. 71 provisions)
Proposed Temp. Reg. *2CITE* (Reissue of FPMR Temp. Reg. F–500 provisions)

List of Subjects in 41 CFR Chapter 201

Government information resources activities, Government procurement.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 30, 1984.

Francis A. McDonough,

Deputy Assistant Administrator, for Federal Information Resources Management.

[FR Doc. 84-23723 Filed 9-6-84; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BPO–040–P]

Medicare Program; Forms Used for Claiming Payment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Medicare regulations to include provisions pertaining to various forms used in requesting enrollment in and payment for services under the Medicare program. This rule also would provide an up-to-date listing and discussion of procedures for providers of services and other practitioners to obtain billing forms that meet Medicare requirements and those of other insurers. In addition, the rule would require that hospitals, other institutional providers and physicians/suppliers obtain the new billing form HCFA–1450 and form HCFA–1500 respectively by commercial purchase.

DATE: To assure consideration, comments should be received by November 6, 1984.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, ATTENTION: BPO–40–P, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code BPO–40–P.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Daniel Baker, (301) 594–1999.

SUPPLEMENTARY INFORMATION:

I. Background

Under Medicare, title XVIII of the Social Security Act (the Act), forms are required to establish or document entitlement and to file a claim for payment. Upon enactment of title XVIII, the administration of the Medicare program was delegated to the Social Security Administration (SSA) which established the procedures and forms. By Reorganization Order of March 9, 1977 (42 FR 13262), a new agency was created, the Health Care Financing Administration (HCFA). Under the Reorganization Order, the Medicare program was separated from SSA and placed under HCFA, which became responsible for the administration of the program.

Applications and related forms prescribed by SSA were identified using SSA form numbers (e.g. SSA–1453), and were printed free-of-charge and distributed to the public, organizations, and providers. HCFA substituted its identification in establishing form numbers (e.g. SSA–1483 became HCFA–1483) but otherwise continued use of the forms and distribution policies begun by SSA. A listing of application and claiming of payment forms appears in the regulations at 20 CFR 422.510 and 422.525. A cross-reference at 42 CFR 405.1662 states that these forms are used for claiming Medicare payment. It was intended that the pertinent forms eventually would be incorporated in Chapter IV of Title 42 (Public Health), of the Code of Federal Regulations where HCFA's regulations are codified.

In the past, the Medicare program provided billing forms at no cost to physicians and institutional providers because the Medicare billing forms were single purpose forms, usable only for Medicare reimbursement. However, in 1978, while the HCFA UB (Uniform Bill)-16 form (subsequently superseded by the UB–82 or HCFA–1450) was in its test phase, the National Uniform Billing Committee chaired by the American Hospital Association (AHA) voted to have hospitals purchase the form. From the hospitals' perspective, it is simpler to allocate costs among all payers rather than to use individual forms furnished by multiple payers. From the payers' perspective, this approach provides a more accurate way of sharing the cost of the forms. Effective on July 1, 1983, some Medicare providers began using a new form, the HCFA–1450 (Uniform Institutional Provider Bill). In addition to Medicare, this form can be used to bill many insurers. Therefore, we believe it is inappropriate to furnish these forms free-of-charge to providers. Although there is general agreement that Medicare will not furnish multiple use forms, we expect that some providers will question the absence of a specific regulation on this subject since current regulations at 20 CFR 422.525 state that Medicare forms are free-of-charge.

With the introduction of several new or revised forms, such as the HCFA–1500 (Health Insurance Claim Form) and HCFA–1450 (Uniform Institutional Provider Bill), the question has been raised of how best to allocate printing costs among multiple users of a single form. We adopted the approach recommended by the Uniform Billing Committee to have providers purchase forms. Hospitals in several States have already implemented this procedure. HCFA plans to implement the HCFA–1450 for all Medicare billing by institutional providers, other than hospitals, by the end of 1985, at which time forms HCFA–1453, HCFA–1453–A, HCFA–1486, and HCFA–1487 will no longer be used.

When the HCFA–1500 (Health Insurance Claim Form) was introduced nationally, we made a strong effort to secure the cooperation of all major third party payers in entering into local agreements for the joint use of this form by major payers. Our efforts were successful in securing local agreements in one-half of the States and local jurisdictions. Under these local

agreements provisions were made for printing the form locally and sharing the costs among the participating third party payers. However, participants to these agreements are not required to provide the form free-of-charge.

In States where there are no local agreements, HCFA is now supplying the HCFA–1500 to Medicare carriers who will make the forms available to physicians and suppliers. Upon the effective date of the final regulation we will require that this form be obtained by commercial purchase.

II. Provisions of the Proposed Regulations

A. HCFA Designation and SSA Designation

We propose to revise regulations located at 42 CFR 405.1662 to include the listing of all applications and forms for applying for Medicare entitlement and requesting payment for services provided under the Medicare program. We also propose to make technical changes to update designations or numbers used and other information on the forms, and to delete cross references to 20 CFR 422.510 and 422.525. The language included in the proposed regulations is similar to that in 20 CFR Part 422, Subpart F, and has been updated to include references to automatic enrollment in Medicare.

B. Listing of Applications and Related Forms

The following prescribed forms are used in applying for entitlement under the Medicare program; we propose to change the call letters and numbers from SSA to HCFA: HCFA–18–F–Application for Hospital Insurance Entitlement; HCFA–4040–Application for Enrollment in Supplementary Medical Insurance Program; HCFA–40–B–Application for Medical Insurance; HCFA–40–D–Application for Enrollment in the Supplementary Medical Insurance Program; HCFA–40–F–Application for Medical Insurance; and HCFA–43–Application for Health Insurance Benefits under Medicare for Individuals with End-Stage Renal Disease.

We also propose to add to the list of related forms, two new forms, the HCFA–1450 (also known as the UB–82), a uniform institutional provider billing form for inpatient and/or outpatient services printed under the specifications of the American Hospital Association sponsored National Uniform Bill Committee and the HCFA–1500, Health Insurance Claim Form, a uniform physician and supplier request for payment.

C. Changes in Distribution Provisions

We propose to add information about where applications and other forms can be obtained. this includes a statement that the HCFA–1450 and the HCFA–1500 must be obtained by commercial purchase. The following prescribed forms would continue to be made available free-of-charge where used, and the call letters changed from SSA to HCFA: HCFA–43–Application for Health Insurance under Medicare for Individuals with End-Stage Renal Disease; HCFA–4040–Application for Enrollment in Supplementary Medical Insurance Program; HCFA–40–B–Application for Medical Insurance; HCFA–40–D–Application for Enrollment in the Supplementary Medical Insurance Program; HCFA–40–F–Application for Medical Insurance; HCFA–1453–Inpatient Hospital and Skilled Nursing Admission and Billing; HCFA–1483–Provider Billing for Medical and Other Health Services; HCFA–18–F–5–Application for Hospital Insurance Entitlement; HCFA–1484–Explanation of Accommodation Furnished; HCFA–1486–Inpatient Admission and Billing-Christian Science Sanatorium; HCFA–1487–Home Health Agency Report and Billing; HCFA–1490S–Request for Medicare Payment; HCFA–1491–Request for Medicare Payment-Ambulance; HCFA–1490U–Request for Medicare Payment by Organization; HCFA–1660–Request for Information-Medicare Payment for Services to a Patient Now Deceased; HCFA–1739–Request for Enrollment Card and Information by Foreign Beneficiary; HCFA–1966–Health Insurance Card; HCFA–1980–Carrier or Intermediary Request for SSA Assistance; and HCFA–2384–Third Party Premium Billing Request.

III. Information Collection and Reporting Requirements

Section 405.1662 of this proposed rule prescribes and lists several forms which are for optional use. As required by the Paperwork Reduction Act of 1980, we will be submitting a copy of this proposed rule to the Office of Management and Budget (OMB) for approval.

Some of the HCFA forms that we propose to list in § 405.1662 required approval by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980. The OMB has granted approval of these forms under the following OMB control numbers and dates:

HCFA form No.	OMB control No.	OMB approval date	Expiration date
HCFA–43	0938–0080	08–02–82	05–31–85
HCFA–18–F–5	0938–0251	12–15–83	10–31–86
HCFA–4040	0938–0245	01–22–82	07–31–84
HCFA–1450	0938–0279	01–17–83	11–30–85
HCFA–1453	0938–0010	05–10–83	05–31–84
HCFA–1483	0938–0013	06–07–83	05–31–85
HCFA–1486	0938–0015	05–18–83	02–29–85
HCFA–1487	0938–0012	05–18–83	04–30–85
HCFA–1490S	0938–0008	08–11–83	06–30–85
HCFA–1490U	0938–0008	08–11–83	06–30–85
HCFA–1491	0938–0042	05–18–83	02–28–85
HCFA–1500	0938–0080	08–11–83	06–30–85
HCFA–1660	0938–0020	02–14–84	12–31–86
HCFA–2384	0938–0041	11–18–81	11–30–84

IV. Impact Analyses

A. Executive Order 12291

We have determined that these proposed regulations do not meet criteria for a "major rule" as defined by section (b) of Executive Order 12291, that is, these regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprise in domestic or import markets.

We are only proposing to add a list of existing billing forms used in requesting payment for services under the Medicare program. We are also proposing to introduce two new billing forms, the HCFA–1450 which providers will obtain by commercial purchase and the HCFA–1500 which is now available free-of-charge, but in the future will be available by commercial purchase. We estimate an annual cost for the HCFA–1450 of $2 million to providers for the printing of these new forms. Further, we anticipate implementation costs of about $6.2 million to intermediaries, and about $20 million to hospitals for the HCFA–1450 claims form. Some of these implementation costs will be reduced by estimated hospital savings of $8 million resulting from simplified recordkeeping, billing efficiencies and savings in staff time associated with previous billing requirements. As this estimated annual effect is significantly less than the $100 million threshold, and as no other threshold criteria are met by the effects of these provisions, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory

Flexibility Act (Pub. L. 96–354) that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

As noted in the Executive Order analysis, we propose to add a list of existing billing forms used in requesting payment for services under Medicare. These revisions will not have a significant impact on providers.

The implementation and use of the HCFA–1450 will impact providers in several ways. First, the approximately 6,500 hospitals will experience aggregate one-time implementation costs of about $20 million. A specific hospital's costs should vary depending on its own claims volume experience. We do not anticipate a significant impact on any hospital as the average cost would be $3,100 per hospital.

Second, as mentioned earlier, these one-time costs should be offset by simplified recordkeeping and other billing efficiencies inherent in the use of the HCFA–1450. We estimate annual hospital savings of about $8 million from these benefits. As with the implementation costs, the savings should be relative to the volume of claims generated by a hospital. As the savings will offset incurred costs, thus minimizing the impact of those provisions, we believe that the implementation and use of the HCFA–1450 will not result in a significant impact on affected providers. We estimate a negligible impact from the use of the HCFA–1500.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatients providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 405 would be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The table of contents for Part 405, Subpart P is amended by revising the title of § 405.1662 to read as follows:

* * * * *

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

* * * * *

Sec.

405.1662 Forms used for applying for entitlement or enrolled and claiming payments.

* * * * *

Authority: Secs. 1102, 1814, 1835, 1871, and 1883, 49 Stat. 647 as amended; 79 Stat. 294; 79 Stat. 303; 79 Stat. 331; 42 U.S.C. 1302, 1395f, 1395n, 1395hh, 1395tt, unless otherwise noted.

2. Section 405.1662 is revised to read as follows:

§ 405.1662 Forms used for applying for entitlement or enrollment and claiming payment.

(a) *General.* The Health Care Financing Administration (HCFA) has designated specific forms to be used by the public in applying for entitlement to benefits under the hospital insurance and supplementary medical insurance program. In addition, HCFA has prescribed forms for claiming payment for services provided to enrollees. A claim for payment under the hospital insurance benefits program or the supplementary medical insurance plan must be submitted by a participating provider of services or a hospital which has elected to claim payment of emergency services or certain services outside the United States on a form designated by HCFA and executed in accordance with such instructions as are prescribed by HCFA. Provisions for the use of each prescribed application and payment form are described in paragraph (b) or (c) of this application.

(b) *Application forms.* The following forms are used in applying for entitlement under the hospital insurance program or the supplementary medical insurance program:

HCFA–18–F–5—Application for Hospital Insurance Entitlement. (For use by individuals who are not eligible for retirement benefits under Title II of the Social Security Act or under the Railroad Retirement Act. This form may also be used for enrollment in the supplementary medical insurance program.)

HCFA–4040—Application for Enrollment in the Supplementary Medical Insurance Program. (This form is used for enrollment by individuals who are not eligible for monthly benefits or for hospital insurance.)

HCFA–40–B—Application for Medical Insurance. (For general use by the SSA District Office in requesting medical insurance protection during the general enrollment period or during the initial enrollment period if the enrollee is not subject to automatic enrollment in SMI.)

HCFA–40–D—Application for Enrollment in the Supplementary Medical Insurance Program. (This form is mailed to individuals who do not have current supplementary medical insurance because of prior refusals, voluntary withdrawal, or premium default from prior coverage. It is used during the annual general enrollment period.)

HCFA–40–F—Application for Medical Insurance. (For use by beneficiaries residing outside the United States.)

HCFA–43—Application for Health Insurance Benefits under Medicare for Individuals with End Stage Renal Disease (ESRD). (An initial application for entitlement by individuals with ESRD).

An individual who upon attainment of age 65 is entitled to monthly social security or railroad retirement benefits or has filed and established eligibility for such benefits is automatically entitled to hospital insurnace protection. (For conditions of entitlement to hospital insurance benefits, see Part 408, Subpart A, of this chapter.) Except for individuals residing in Puerto Rico or outside the United States, an individual who is entitled to hospital insurance protection based on age 65, disability, or ESRD is automatically enrolled in the supplementary medical insurance program, unless the individual refuses such enrollment. An individual who is not entitled to hospital insurance is not subject to automatic enrollment in the supplementary medical insurance program. Also, an individual who refuses automatic enrollment must subsequently request supplementary medical insurance coverage to become enrolled (see Forms HCFA–4040, HCFA–40–B, HCFA–40–D, and HCFA–40–F under § 405.1662(b)). (For conditions of entitlement to supplementary medical insurance benefits, see Part 408, Subpart B, of this chapter.)

(c) *Related forms.* The following forms are prescribed for use in requesting payment for services under the hospital insurance benefits program and the supplementary medical insurance benefits program and for other related purposes:

HCFA–1450—Uniform Institutional Provider Bill. (This form is for institutional provider billing for Medicare inpatient, outpatient and home health services. Initial hospital implementation on a phase-in-basis, is to be completed by October 1, 1984.)

HCFA–1453—Inpatient Hospital and Skilled Nursing Admission and Billing. (To be completed by a hospital or skilled nursing facility for payment of hospital or skilled nursing facility expenses for treatment of a patient confined in a hospital or skilled nursing facility.)

HCFA–1483—Provider Billing for Medical and Other Health Services. (To be completed by a hospital for payment for treatment of a patient who is not confined to an institution or has no Medicare Part A benefits available during a confinement.)

HCFA–1486—Inpatient Admission and Billing—Christian Science Sanatorium. (To be completed by a Christian Science sanatorium for payments for treatment of a patient confined in the sanatorium.)

HCFA–1487—Home Health Agency Report and Billing. (For use by an organization providing home health services.)

HCFA–1490S—Request for Medicare Payment. (For use by a patient to request payment for medical expenses.)

HCFA–1490U—Request for Medicare Payment by Organization. (For use by an organization requesting payment for medical services.)

HCFA–1491—Request for Medicare Payment-Ambulance. (For use by an organization requesting payment for ambulance services.)

HCFA–1500—Health Insurance Claim Form. (For use by physicians and suppliers to request payment for medical services.)

HCFA–1660—Request for Information-Medicare Payment for Services to a Patient now Deceased. (For use in requesting amounts payable under title XVIII to a deceased beneficiary.)

HCFA–1739—Request for Enrollment Card and Information by Foreign Beneficiary. (Used to notify beneficiaries approaching age 65 who reside in foreign countries that they are eligible to enroll for SMI. They return this form if they wish additional information and an application, HCFA–40–F.

HCFA–1966—Health Insurance Card. (This card is issued to all individuals entitled to hospital insurance benefits or supplementary medical insurance benefits, or both, whether the entitlement is based on age, disability or end-stage renal disease.)

HCFA–2384—Third Party Premium Billing Request. (For use by an enrollee who must pay premiums by direct remittance and is having his or her premium notices sent to a third party.)

(d) *Where applications and forms are available.* Excluding forms HCFA 1450 and HCFA 1500, all applications and related forms prescribed for use in the programs administered by HCFA under the provisions of title XVIII of the Social Security Act are printed under the specifications of HCFA and distributed free-of-charge to the public, institutions, or organizations for purposes described in paragraph (b) of this section. The HCFA–1450 and HCFA 1500 may be obtained only by commercial purchase. All other prescribed application forms can be obtained upon request from HCFA or any Social Security branch or district office. The HCFA–1490S is also available at local Social Security Offices. Forms, other than the HCFA–1450 and HCFA–1500, appropriate for use in requesting payment for services provided under the Medicare program can also be obtained from the intermediaries or carriers (organizations under contract with HCFA to make payment for such services). HCFA is not required to provide the HCFA–1450 and HCFA–1500 forms free-of-charge.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance and Supplementary Medical Insurance)

Dated: July 17, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 8, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–23748 Filed 9–6–84; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 14

Wildlife Import/Export License Fees: Inspection Fees Whenever Wildlife Is Imported Into or Exported From the United States by Persons Engaged in Business as an Importer or Exporter of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of the comment period on the proposed rule.

SUMMARY: The Service published a proposed rule June 18, 1984 (49 FR 24898–24903) dealing with import/export license fees and inspection fees for wildlife imported into or exported from the United States. Comments have been received requesting additional time for comments. The Service therefore is re-opening the comment period on the proposed rule to allow the public an opportunity to comment fully.

DATE: Comments on the proposed rule are due on or before October 9, 1984.

ADDRESSES: Comments may be mailed to Director (LE), U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, or delivered weekdays to the Division of Law Enforcement, U.S. Fish and Wildlife Service, 3rd Floor, 1375 K Street NW., Washington, D.C. between 7:45 a.m. and 4:15 p.m. Comments should bear the identifying notation REG 14–02–002069. Comments received may be inspected weekdays during normal business hours at the Service's Division of Law Enforcement, 3rd Floor, 1375 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen King, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION: On June 18, 1984 (49 FR 24898–24903) the Service published a proposed rule raising the biannual fee for wildlife import/export licenses from $50 to $250 and to charge a new inspection fee for each wildlife shipment imported into or exported from the United States as "user" fees. This action is authorized by the Endangered Species Act of 1973 and general statutory authority. For details consult the **Federal Register** of June 18, 1984.

Comment period ended August 17, 1984, on the proposed rulemaking. Requests have been received from foreign governments for an extension of the comment period in order to allow persons or businesses affected by the proposed rule and residents outside the United States an opportunity to comment and respond.

The Service is giving notice that the comment period on the proposed rule has been reopened. Comments on the proposed rule must be received on or before the date indicated above under the caption **DATES.**

Determinations of Effects of Rules

The Department of the Interior has determined that the proposed rule is not a major rule under Executive Order 12291. The Department has also certified that the rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 801 et seq.).

These determinations are discussed in more detail in a "Determinations of Effects" which has been prepared by the Service. A copy of that document may be obtained by contacting the person identified above under the caption **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

The proposed rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with the proposed rule. It is on file in the Service's Division of Law Enforcement, 1375 K Street NW., Suite 300, Washington, D.C. 20005, and may be examined during regular business hours. Single copies are also available upon request by contacting the person identified above under the caption **FOR FURTHER INFORMATION CONTACT.**

Public Comments Invited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Interested persons are invited to submit

written comments regarding the proposed rule. Those comments and any additional information received will be considered by the Department in adopting a final rule. Correspondence should be mailed or delivered to the address given at the beginning of this notice.

The primary author of this notice is Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service.

Dated: August 30, 1984.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-23713 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 23

Changes To Be Proposed in Appendices to the Endangered Species Convention

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for information.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species, which are listed in appendices to this treaty. The United States, as a Party to CITES, may propose amendments to Appendix I or II for consideration by the other Parties.

This notice invites comments and information from the public on species that have been identified as candidates for U.S. proposals to amend Appendix I or II at the next biennial meeting of Party nations. The meeting is now planned for April 1985 in Buenos Aires, Argentina.

DATE: The Service will consider all comments received by October 9, 1984 on proposals described in this notice.

ADDRESS: Please send correspondence concerning this notice to the Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 537, 1717 H Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION: In its previous notice on this subject (49 FR 6951, February 24, 1984) the Service requested information on plant or animal species that might lead it to develop proposed amendments for consideration at the fifth regular meeting of the Conference of the Parties. That notice described the provisions of CITES for listing species in the appendices and set forth information requirements for proposals. The present notice responds to comments and information received, and describes tentative U.S. proposals for which the Service seeks additional comments and information.

1. Psittacine birds—Currently, all species in the order Psittaciformes (parrots, macaws, cockatoos) are included in CITES Appendix II except for 32 species or subspecies that are in Appendix I, the rosy-ringed parakeet (*Psittacula Krameri*) in Appendix III, and two unlisted species (budgerigar, *Melopsittacus undulatus*, and cockatiel, *Nymphicus hollandicus*). This order was added to Appendix II in 1981 when an overwhelming majority of the Parties accepted a proposal from the United Kingdom of Great Britain and Northern Ireland.

The Service received 67 letters from individual aviculturists recommending that the United States now propose removal of the majority of psittacine birds from Appendix II, and removal of the scarlet-chested parakeet (*Neophema splendida*) from Appendix I. The American Federation of Aviculture and the Kansas Avicultural Society also urged removal of the order Psittaciformes from Appendix II, although the Federation noted that the current listing "has not interfered with bird imports." The main argument given in support of these recommendations is that breeding of large numbers of these birds in captivity has eliminated the threat of extinction.

Although aviculturists have bred many psittacines, wild populations of the birds may still be at risk, as noted in the dissenting comments of one aviculturist. Genetic differences between wild and captive populations as a result of artificial selection can render the latter unsuited for release in the wild. Also it is not clear whether many captive populations have become self-sustaining. Existing information about the population status of wild populations is generally too poor to satisify the rigorous criteria used by Parties in evaluating proposals to remove species from Appendix I or II. For these reasons, the Service has decided not to develop proposed amendments on psittacines for the next meeting of the Parites, and does not request further comment on such proposals at this time.

Several of the persons who commented on psittacines expressed opposition to controls on interstate commerce or other activities within the United States. Because CITES regulates only international shipment, such comments probably relate instead to the Endangered Species Act of 1973, which does regulate interstate commerce in Endangered and Threatened species, and under which 26 species or subspecies of psittacines are listed as endangered. The Service has issued regulations to simplify compliance with the Act by persons involved in breeding Endangered species in captivity (see 50 CFR 17.21(g)).

2. Lesser florican (*Sypheotides indica*)— Inclusion of this species, a bustard endemic to India, in the appendices to CITES was suggested by Ms. Marie C. Peronne of Clarence, N.Y. Ms. Peronne supplied little supporting information. The Bustard Group of the International Council for Bird Preservation recently surveyed populations of the bird (Magrath, R.D., M.W. Ridley and J.Z. Woinarski. 1983. Status and habitat requirements of lesser floricans *Sypheotides indica* in Kathiawar, Western India. Report of Project 9.220. ICBP). Their conclusions were that floricans were still abundant in areas of ungrazed grassland, and that the conversion of grassland to cultivation or its degradation from overgrazing were the main causes of population decline since about 1950. Because international trade does not appear to be implicated, the Service does not now intend to develop a proposal to add this species to Appendix I or II.

3. Northern elephant seal (*Mirounga angustirostris*)—This species was transferred from Appendix I to Appendix II in 1979, on the basis of information supplied by the U.S. National Marine Fisheries Service (NMFS). Biological evidence showed that the species has recovered from near extinction by commercial hunting in the 1800's, to the point where it occupies and breeds in most of its former known range. NMFS recently suggested that the species might appropriately be removed from Apendix II on the grounds that it is not potentially threatened and is not in trade.

The Service is contemplating a proposal to remove the northern elephant seal from Appendix II, and invites comments and information on such action. Aside from biological and trade data, the Service will seek the views of Mexico, where the species also occurs, and consider the effect of delisting on efforts to regulate trade—if

any might occur—in the southern elephant seal (*M. leonina*), which also is listed in Appendix II.

4. Naiad mussels (family Unionidae)—There presently are 26 species or subspecies of naiad mussels in Appendix I and 6 species or subspecies of them in Appendix II. Although these listings have been in effect since CITES entered into force in 1975, there has been almost no recorded international trade in the taxa, most of which are protected under the Endangered Species Act of 1973. The complex taxonomy and extreme difficulty in identifying these animals to species or subspecies render the CITES listings ineffective, and it is uncertain whether these CITES listings are needed to supplement the protection conferred by the Act.

Some unlisted naiads are common enough to be commercially harvested in rivers of the Mississippi drainage for export of shells to Japan. Such harvest is regulated by the individual states. The Service does not have information to indicate that naiads subject to this harvest deserve protection under CITES, except perhaps because of similarity in appearance to listed forms. Therefore, the Service invites information and comments on whether any of the individual taxa of naiads now listed should be proposed for removal from the appendices or whether the entire family Unionidae should be added to Appendix II. Please note that either change under CITES would not alter protection afforded under the Endangered Species Act.

If it is decided not to propose removal of certain naiads from Appendix I, the Service will consider a proposal to annote the current listing of Sampson's pearly mussel (*Epioblasma sampsoni*) as possibly extinct, for reasons given in support of its delisting under the Act (49 FR 1057, January 9, 1984).

5. Red-knee tarantula spider (*Brachypelma smithi*)—This large groundwelling spider occurs in semi-desert habitats in Western Mexico. It is collected for trade as a pet in the United States and Western Europe. The IUCN Invertebrate Red Data Book (Wells, S.M., R.M. Pyle and N.M. Collins. 1983) includes this species but indicates that its status is insufficiently known to determine if it might be at risk because of such trade. Wells *et al.* recommend that studies be conducted, and that if they show population declines due to trade, then listing under CITES should be considered.

The Environmental Defense Fund suggested a proposal to include this species in Appendix II. The Service is considering such a proposal, and invites comments and information on such action. In addition to biological and trade data, as mentioned by Wells *et al.*, the Service will seek the views of Mexico and consider the practicality of distinguishing this species from other spiders in trade.

6. Parts and derivatives of Appendix II plants—Article I of CITES states that in the case of species listed in Appendix I, all readily recognizable parts and derivatives are subject to regulation. However, in the case of plant species listed in Appendix II or III, only those parts and derivatives specified in the Appendices in relation to the species are subject to regulation. This provision causes problems in implementing CITES for plants: (a) There are difficulties in distinguishing whole specimens from parts, resulting in the question of how much an intact plant may be modified before it loses its legal identity as a "specimen"; (b) the need to specify parts and derivatives results in plants being treated differently from animals, which might not be biologically justified, and (c) it is difficult for Parties to adjust their controls on trade in response to changes in the forms in which Appendix II or III plants are normally traded, so as to cover those parts and derivatives that should be subject to regulation from a conservation standpoint.

A recent resolution on this subject adopted by the Parties in Botswana (Conf. 4.24) recommended among other things: That trade in all Appendix II or III plant parts and derivatives should be regulated unless particular ones are specified as being exempt; that cut flowers of artificially propagated orchids, and seeds, spores, and tissue cultures not be regulated; and that trade in other parts and derivatives not be regulated if this is agreed upon by the Conference of the Parties. In order for the recommendations in Conf. 4.24 to be implemented properly, a proposal must be submitted to amend the listing of plants in Appendix II in accordance with CITES Article XV. In doing so, it is necessary to consider whether any plant parts or derivatives should be excluded from CITES, paying particular attention to those parts and derivatives that frequently enter trade without detriment to the species involved. The question of whether parts or derivatives are "readily recognizable" also would have to be considered.

The Service seeks information and comments on those parts or derivatives that should be proposed for exclusion with respect to plants now listed in Appendix II. As noted above, Conf. 4.24 already suggests the exclusion of cut flowers of artificially propagated orchids, as well as seeds, spores and tissue cultures of all Appendix II plants.

7. American ginseng (*Panax quinquefolius*)—This herb, native to Eastern North America, is listed in Appendix II and its roots are specified as subject to CITES. The species is extensively exploited, mainly for export to the Orient. Wild populations in certain states have become depleted, but in other states they continue to sustain a regulated harvest without apparent detriment to their survival. In addition to collection from the wild, ginseng is grown under cultivation or under seminatural conditions.

The Honorable Albert Gore, Jr., Member of Congress from Tennessee, recommended that the species be proposed for removal from Appendix II on the grounds that it appears to be plentiful in Tennessee and that regulation of export penalizes honest ginseng diggers and dealers by stimulating a black market and creating economic hardship.

In response, the Service has reviewed the status of ginseng throughout its range and determined that the species as a whole is appropriately listed in Appendix II. Tennessee is one of several states for which the Service did not grant approval of ginseng export for the 1983 season, because the state's inspection and certification system was not adequate to meet the Service's Management Authority requirements under CITES (see 48 FR 45775, October 7, 1983). The Service would prefer to resolve problems with that system rather than to jeopardize any conservation benefits that CITES might offer for wild ginseng throughout its range.

For reasons given above, the Service does not intend to consider a proposal to delist ginseng, and does not request further comment on such a proposal at this time.

8. Cycads (*Ceratozamia* spp.)—The living genera of cycad plants are treated as belonging to either one, two, or three families; all taxa in the three families are listed in CITES Appendix I or II. TRAFFIC (U.S.A.), a program of World Wildlife Fund—U.S., suggested a proposal to transfer the genus *Ceratozamia* of the family Zamiaceae from Appendix II to Appendix I. About eight species are recognized in this genus, all but one confined to Mexico. TRAFFIC (U.S.A.) indicated that a Mexican authority on these plants reported that large portions of certain populations were destroyed by collection activities, and that the species of this genus were threatened with extinction by collection and habitat destruction.

The Service is considering a proposal to transfer *Ceratozamia* spp. to Appendix I, and invites comments and information on such action. The comments of Mexico and Guatemala, where these species occur, also will be sought.

Future Actions

The Service plans to publish a further **Federal Register** notice in October 1984, announcing its decisions on the species proposals discussed above, prior to submitting U.S. proposals to the CITES Secretariat for consideration at the fifth regular meeting of the Conference of the Parties. For species that occur outside the United States, the countries of origin will be contacted and consulted before a decision is made on submittal of a proposal by the United States.

Persons having current information about these species are invited to contact the Service's Office of Scientific Authority at the above address. The Service also requests information on environmental impacts of such proposed actions and their potential economic effects on state and local governments, persons, businesses, and organizations.

This notice was prepared by Dr. Richard L. Jachowski, Office of Scientific Authority, under the authority of 16 U.S.C. 1531–43.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Dated: August 29, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-23693 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 175
Friday, September 7, 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

Forest Service

National Forest Timber Sales; Control of Skewed Bidding Procedures

AGENCY: Forest Service, USDA.

ACTION: Notice of extension of public comment period.

SUMMARY: On July 16, 1984, the Forest Service published a notice of proposed policy to limit skewed bidding (49 FR 28748). Comments on the proposed policy were to be received by September 14, 1984, in order to be considered. The proposal, upon adoption, would revise agency procedures for establishing bid rates for National Forest timber sale contracts. The primary purpose in revising these procedures is to reduce the Government's revenue losses associated with skewed bidding, the practice in which a bidder on a multispecies timber sale attributes most of the total bid value to one species and bids the minimum price on the others. The proposal would limit bidding on species that represent a minor proportion of the total sale volume. The proposed procedures would better protect the Government's earnings on timber sales as well as preserve competition among prospective purchasers. Summer is the busiest season for most timber sale operations. Because most contractors have been working in the field since publication of the notice of revised policy, many have not had adequate time to consider the policy and provide comments. Therefore, the public comment period is extended until October 15, 1984.

DATE: Comments must be received on or before October 15, 1984.

ADDRESS: Send written comments to R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

All written submissions made pursuant to this notice will be available for public inspection during regular business hours in the office of the Director, Timber Management Staff, Forest Service, USDA, South Agriculture Building, Room 3207, 12th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Olson, Timber Management Staff, (202) 447–4051.

Dated: August 30, 1984.

J. Lamar Beasley,

Acting Chief, FS.

[FR Doc. 84–23746 Filed 9–6–84; 8:45 am]

BILLING CODE 3410–01–M

Scientific Advisory Board, Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Clark County, Vancouver, WA; Meeting

The Mount St. Helens Scientific Advisory Board will meet at 9 a.m., September 25, 1984, at the Gifford Pinchot National Forest Supervisor's Office, 500 West 12th Street, Vancouver, Washington 98660, to develop scientific recommendations for the National Volcanic Monument relative to:

1. A review of the Draft Comprehensive Management Plan for the Mount St. Helens National Volcanic Monument.

2. A possible Board statement to the fisheries science community encouraging a proposal to the National Science Foundation for support of a study on natural recovery of National Volcanic Mounument lakes.

3. Open discussion of topics of interest to the Advisory Board.

The meeting will be open to the public. Persons who wish to make a statement to the Board should notify Dr. Jack K. Winjum, Chairperson, c/o Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660, 206–696–7570. Written statements may be filed with the Board before or after the meeting.

Dated: August 29, 1984.

Claude R. Elton,

Acting Regional Forester.

[FR Doc. 84–23649 Filed 9–6–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Paw Paw Schools Natural Area—Critical Area Treatment RC&D Measure, Michigan

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Paw Paw Schools Natural Area RC&D Measure, Van Buren County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for the critical area treatment. The planned works of improvement for the critical area treatment include the following items: shaping, grading, topsoil, seed, fertilizer, and mulch of about 0.5 acre and three sets of access stairs. Total construction cost is estimated to be $8,900; $5,800 RC&D funds and $3,100 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: August 30, 1984.

Homer R. Hilner,

State Conservationist.

[FR Doc. 84–23669 Filed 9–6–84; 8:45 am]

BILLING CODE 3410–16–M

CIVIL RIGHTS COMMISSION

Connecticut 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 Connecticut Advisory Committee to the Commission will convene at 5:00 p.m. and will end at 7:00 p.m., on September 25, 1984, at the Connecticut Education Association, 21 Oak Street, Hartford, Connecticut 06106. The purpose of the meeting is to discuss the draft report on a followup study of civil rights issues related to battered women.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23641 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

Delaware 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 Delaware Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on September 25, 1984, at the Boggs Federal Courthouse, Room 3207, 844 King Street, Wilmington, Delaware 19801. The purpose of the meeting is to discuss the current status and program plans of the Advisory Committee.

Persons desiring additional information, or planning a presentation to the Committeee, should contact the Mid-Atlantic Regional Office at (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23838 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

District of Columbia 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 District of Columbia Advisory Committee to the Commission will convene at 2:30 p.m. and will end at 4:30 p.m., on October 18, 1984, at the U.S. Commission on Civil Rights Headquarters, Conference Room, 1121 Vermont Avenue, NW., Washington, D.C. 20425. The purpose of the meeting is to discuss plans for upcoming Advisory Committeee activity.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Mid-Atlantic Regional Office at (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23639 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

Maryland 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 Maryland Advirory Committee to the Commission will convene at 6:00 p.m. and will end at 8:00 p.m., on October 9, 1984, at the Montogmery County Human Relations Commission, Conference Room, 164 Rollins Avenue, Rockville, Maryland 20850. The purpose of the meeting is to discuss plans for upcoming Advisory Committee activity.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Mid-Atlantic Regional Office at (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23637 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

Mississippi Advisory Committee; Agenda and Notice of Pubic 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 Mississippi Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 7:00 p.m., on September 27, 1984, at the Walthum Hotel, Van Dorn Room, 225 East Capitol, Jackson, Mississippi 39205. The purpose of the meeting is to dicuss the joint regional advisory committee conference, the national advisory committee chairperson's conference, and future program plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23636 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

Oklahoma Advisory Committee; Agenda and Notice of Public Workshop

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a workshop of the Oklahoma

Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on September 29, 1984, at the Sheraton Inn-Skyline East, Cherokee/Chicksaw Rooms, 6333 E. Skelly Drive, Tulsa, Oklahoma 74135. The purpose of the workshop is to study issues regarding equal access of minorities to the electoral process in Oklahoma.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Southwestern Regional Office at (512) 229–5570.

The workshop will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23640 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

Oklahoma Advisory Committee; Agenda and Notice of Public Workshop

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a workshop of the Oklahoma Advisory Committee to the Commission will convene at 8:00 a.m. and will end at 5:00 p.m., on September 26, 1984, at the Holiday Inn West, Beachcomber Room, 801 South Meridian, Interstate 40 at Meridian, Oklahoma City, Oklahoma 73108. The purpose of the workshop is to study issues regarding equal access of minorities to the electoral process in Oklahoma.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Southwestern Regional Office at (512) 229–5570.

The workshop will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23642 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

Rhode Island 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 Rhode Island Advisory Committee to the Commission will convene at 12:00 noon and will end at 1:30 p.m., on September 24, 1984, at the Department of Economic Development, Conference Room A, 7 Jackson Walkway, Providence, Rhode Island 02940. The purpose of the meeting is to plan Advisory Committee activities for fiscal year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–23643 Filed 9–6–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 272]

Resolution and Order Approving the Application of the Metropolitan Nashville-Davidson County Port Authority To Expand the Scope of Operations at Subzone 78A To Include Auto Manufacturing

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Metropolitan Nashville-Davidson County Port Authority, grantee of Foreign-Trade Zone 78, and Subzone 78A approved for the truck manufacturing operations of Nissan Motor Manufacturing, U.S.A. in Smyrna, Tennessee, filed with the Foreign-Trade Zones Board (the Board) on May 25, 1984, requesting authority to expand the scope of operations conducted under zone procedures at Subzone 78A to include automobile manufacturing, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Authority for Auto Manufacturing Operations at Foreign-Trade Subzone 78A, Smyrna, Tennessee

Whereas, the Metropolitan Nashville-Davidson County Port Authority, grantee of Foreign-Trade Zone No. 78 and of Subzone 78A at the truck manufacturing plant of Nissan Motor Manufacturing Corporation U.S.A. in Smyrna, Tennessee, has made application (filed May 17, 1984, Docket No. 27–84, 49 FR 22120) to the Foreign-Trade Zones Board (the Board) for authority to expand the scope of operations conducted under zone procedures at Subzone 78A to include automobile manufacturing;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the operation is in the public interest, and that the requirements of the Act and the Board's regulations are otherwise satisfied;

Now, therefore, in accordance with the application filed May 17, 1984, the Board hereby authorizes the manufacture of automobiles at Subzone 78A, subject to the provisions and restrictions of the Foreign-Trade Zones Act and Regulations issued thereunder. Operational approval of the District Director of Customs shall be obtained before zone procedures are used.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 30th day of August 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84–23762 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–583–023]

Clear Sheet Glass From Taiwan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On June 29, 1984, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on clear sheet glass from Taiwan. The review covers three time periods. The first involves two of the three known manufacturers and/or exporters and one known third-country reseller of this merchandise to the United States for the period July 1, 1976, through July 31, 1980. The second and third cover all four firms generally for consecutive periods from August 1, 1981, through July 31, 1983. We are covering the period July 1, 1976, through July 31, 1980, because of a remand from the Court of International Trade for reconsideration of the results of the first administrative review.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and tentative determination to revoke in part. We received no comments. Based on our analysis, the final results of review are the same as the preliminary results.

EFFECTIVE DATE: September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377–5255/1130.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 26772) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on clear sheet glass from Taiwan (36 FR 16508, August 21, 1971). 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 clear sheet glass, currently classifiable under items 542.3120 through 542.4835 of the Tariff Schedules of the United States Annotated.

The review covers three time periods. The first involves two of the three known manufactures and/or exporters and one known third-country reseller of Taiwanese clear sheet glass to the United States for the period July 1, 1976, through July 31, 1980. The second and third cover all four firms generally for consecutive periods from August 1, 1981, through July 31, 1983. We are covering the period July 1, 1976, through July 31, 1980, because of a remand from the Court of International Trade for reconsideration of the results of the first administrative review.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as the preliminary results, and we determine that the following margins exist:

Manufactuter/exporter	Time period	Margin (percent)
Hsinchu Glass Works, Inc.	7/1/76–7/31/80	14.88
	8/1/81–7/31/82	[1] 14.88
	8/1/82–7/31/83	[1] 14.88
Taiwan Glass Corporation	7/1/76–7/31/80	[1] 1.6
	8/1/81–7/31/82	[1] 1.6
	8/1/82–7/31/83	[1] 1.6
Yotak Trading Company	8/1/81–7/31/82	[1] 7.0
	8/1/82–7/31/83	[1] 7.0
Third-Country Reseller (Country): Israeli International Trade Co., Ltd. (Israel)	7/1/76–7/31/80	[1] 14.88
	8/1/80–7/31/82	[1] 14.88
	8/1/82–7/31/83	[1] 14.88

[1] No shipments during the period.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, the Department shall require a cash deposit of estimated antidumping duties based on the above margins for those firms. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after July 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 14.88 percent shall be required. These deposit requirements are effective for all shipments of Taiwanese clear sheet glass entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

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

We will examine exports of this merchandise manufactured and exported by Hsinchu Glass Works, Inc. during the period August 1, 1983, through June 29, 1984, the date of our tentative determination to revoke with regard to this firm, in our next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 31, 1984.

[FR Doc. 84–23758 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–076]

Perchlorethylene From Italy; Final Results of Administrative Review and Revocation of Antidumping Finding

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of administrative review and revocation of antidumping finding.

SUMMARY: On May 29, 1984, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping finding on perchlorethylene from Italy. The review covered the two known exporters of this merchandise to the United States, Montipede and Enichem Polimeri, and the period May 1, 1982, through May 18, 1983. There were no known shipments of this merchandise during the period and there are no known unliquidated entries.

We gave interested parties an opportunity to submit written or oral comments on the preliminary results and tentative determination to revoke. We received no comments. We also determined that there were no shipments of this merchandise to the United States from Italy during the period May 19, 1983, through the date of the tentative determination to revoke. We advised all interested parties that there were no shipments and we provided an additional opportunity to comment. Again we received no comments.

Accordingly, these final results cover up to the date of our tentative determination to revoke and we revoke

the antidumping finding on perchlorethylene from Italy.

EFFECTIVE DATE: September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 22367) the preliminary results of its administrative review and tentative determination to revoke the antidumping finding on perchlorethylene from Italy (44 FR 29046, May 18, 1979). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Italian perchlorethylene, including technical grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is completely capable of being mixed with organic liquids. It is a chlorinated solvent mainly for drycleaning of clothing, but is also used in other applications such as vapor degreasing of metals. Such merchandise is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated.

The review covered the two known exporters of this merchandise to the United States, Montipede and Enichem Polimeri, and the period May 1, 1982, through May 18, 1983. The Department has also determined that there were no shipments of this merchandise to the United States during the period May 19, 1983, through the date of publication of the tentative determination to revoke the finding.

Final Results of Review and Revocation

We invited interested parties to comment on the preliminary results and tentative determination to revoke. We received no comments or requests for a hearing. The Department provided all interested parties further preliminary results for the period up to the date of the tentative determination, and gave interested parties additional opportunity to comment. Again we received no comments.

Based on our analysis, the final results of our review are the same as those presented in the preliminary results. For the reasons set forth in the preliminary results, we are satisfied that there is no likelihood of resumption of sales at less than fair value.

Accordingly, we revoke the antidumping finding on perchlorethylene from Italy. This revocation applies to all unliquidated entries of Italian perchlorethylene entered, or withdrawn from warehouse, for consumption on or after May 29, 1984.

This administrative review, revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 31, 1984.

[FR Doc. 84–23757 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–DS–M

University of California, et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84–266. Applicant: University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley CA 94720. Instrument: FTIR Spectrometer System, Model IZM03. Manufacturer: Bomem, Inc., Canada. Intended use: The instrument will be used for a variety of experiments in solid state and molecular physics. Among the systems to be studied are the solid/vacuum interface, for example, nickel and silver surfaces; semiconductors, including germanium, silicon, and gallium arsenide; quasi-one-dimensional materials such as $(TaSe_4)_2I$ and K_3MoO_3 ("blue bronze"); and short-lived molecular species generated in arc sources. Educational purposes—Training students in the techniques of modern infrared spectroscopy and solid state physics and preparing them for individual research careers. Application Received by Commissioner of Customs: August 3, 1984.

Docket No. 84–268. Applicant: National Institute of Mental Health, Laboratory of Preclinical Pharmacology, St. Elizabeth's Hospital, WAW Bldg., Washington, D.C. 20232. Instrument: Electron Microscope, Model 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Study of the brain and peripheral neuronal function. Specifically the instrument will be used to localize neuropeptides at the ultrastructural level in nervous tissue. In addition the instrument will be used to train visiting researchers in techniques and applications of electron microscopy currently in use at NIH. Application received by Commissioner of Customs: August 6, 1984.

Docket No. 84–270. Applicant: State University of New York, Stony Brook Campus, Stony Brook, NY 11794. Instrument: Klystron, Type VRB2113A. Manufacturer: Varian Canada, Ltd., Canada. Intended use: Basic research to determine man's influence on the stratospheric ozone layer and related stratospheric phenomena. Experiments will involve measurement of molecular emission lines from various stratospheric trace gases, such as ClO, ozone, N_2O, HO_2, etc. The experiments will be conducted to determine the extent to which release of cholorfluorocarbons alters the earth's stratospheric chemistry. Application received by Commissioner of Customs: August 6, 1984.

Docket No. 84–272. Applicant: Massachusetts Institute of Technology, Department of Earth, Atmospheric and Planetary Sciences, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: X-Ray Microanalyzer, Model Superprobe 733. Manufacturer: Jeol, Ltd., Japan. Intended use: X-ray analysis of material surfaces using wavelength dispersive and energy dispersive methods with a spatial resolution of 1 to 2 microns. High resolution observation of surface topology and qualitative determination of element distributions. Quantitative chemical analyses of crystalline and amorphous solids to determine element distributions in multiphase materials. Materials to be studied include: volcanic rocks of the ocean floor, volcanic products of continental margins, plutonic rocks of the oceanic crust and mantle and metamorphic rocks of the continental crust and ocean floor. The instrument will also be used to obtain chemical analyses of the crystalline and glass products of experimental phase

equilibrium, kinetic studies and rock deformation studies. Educational purposes—Teach students how to obtain chemical analyses of geological materials. Application received by Commissioner of Customs: August 6, 1984.

Docket No. 84–277. Applicant: University of Minnesota, Department of Geology and Geophysics, 310 Pillsbury Drive SE., Minneapolis, MN 55455. Instrument: Mass Spectrometer, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended Use: Studies of the following phenomena: (1) isotope exchange rates as functions of parameters such as grain size, bulk chemistry and mineralology, fracture density, and volatile species; (2) modifications of crustal and mantle rocks through interaction with the earth's fluid envelope; and (3) interaction between crustal and mantle reservoirs. In most of the research projects, oxygen isotope composition of separated minerals or whole-rocks is analyzed. The instrument will also be used as an integral part of the graduate program in the Department of Geology and Geophysics and in the Department of Physics. Application received by Commissioner of Customs: August 6, 1984.

Docket No. 84–279. Applicant: Western Research Institute, 9th and Lewis, Laramie, WY 82070. Instrument: Data System, Pyrolysis Probe and Desorption Chemical Ionization Probe. Manufacturer: VG Instruments, United Kingdom. Intended use: The instruments are accessories to an existing mass spectrometer system. The pyrolysis probe will be used in the analysis of highly associated materials, such as polymers. The desorption chemical ionization probe will be used in the high resolution mass spectral analysis of involatile sample materials derived from shale oil and other fossil fuel sources. The data system will be an integral part of the mass spectrometer system and will be universally used with all experiments. Application received by Commissioner of Customs: August 6, 1984.

Docket No. 84–280. Applicant: U.S. Geological Survey, Water Resources Division, National Research Program, 5293 Ward Road, Arvada, CO 80002. Instrument: Inductively-Coupled Plasma/Mass Spectrometer, Model ELAN 250. Manufacturer: Sciex, Inc., Canada. Intended use: Scientific research in the inorganic trace element chemistry of hydrologic systems, including surface water, ground water, atmospheric precipitation (rain and snow) and related materials. This includes measurement of trace elements and each of their stable isotopes at ultra high sensitivity directly in aqueous media with preconcentration or separation. In addition, by measuring the isotope ratios of selected elements, experiments can be performed to age date the hydrologic systems and function as conservative tracers to follow the movement and mixing of systems and determine the origin of pollutants and contaminants. Application received by Commissioner of Customs: August 6, 1984.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

FR Doc. 84–23756 Filed 9–6–84; 8:45 am]

BILLING CODE 3510-DS-M

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held September 24, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue NW., Washington, D.C.

The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export control applicable to automated manufacturing equipment or technology.

Agenda: *General Session*—will begin with an open meeting to invite public comments with regards to existing commodity or technology controls. The commodities and technologies that fall under the responsibilities of the Committee are those relating to the following Commodity Control List (CCL) entries: 1091, 1532, 1370, 1093, 1312, 1080, 1081, 1086, 1357, 1371, 1354.

In addition the Committee also is concerned with robots, automatic industrial control systems and process controllers. Invited comments will be restricted to these or substantially related items.

In particular the Committee would like to invite public evidence of foreign available equipment (or technology) falling within the above mentioned CCL entries. Information is desired relating to equipment (or technologies) produced or available in the following country groups:

a. Proscribed countries (East Bloc Countries),

b. Non-COCOM free world countries.

Specific information is needed on:

1. Manufactures and country of origin,
2. Product's capabilities and features,
3. Product availability, and
4. Proof of delivery of products in sufficient quantity and quality.

The Committee is generally concerned with future regulatory levels and changes needed to existing commodity or technology control level. Request specifically oriented to individual license application should not be presented at this time.

Executive Session—Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meeting of the Committee to the public on the basis of 5 U.S.C. 522b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further information or copies of the minutes contact Margaret A. Cornejo (202) 377–2583.

Dated: September 4, 1984.

James K. Pont,

Deputy Director, Office of Export Administration.

[FR Doc. 84–23752 Filed 9–6–84; 8:45 am]

BILLING CODE 3510-25-M

[C-201-401]

Bars and Shapes From Mexico; Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders

Correction

In FR Doc. 84–21958 beginning on page 32887 in the issue of Friday, August 17, 1984, make the following correction.

On page 32892, column three, "Appendix A—Product Description" and the file line were inadvertently omitted and should appear as follows after the signature:

Appendix A—Product Description

1. the term "certain deformed concrete reinforcing bars" covers hot-rolled steel bars, of solid cross-section, having deformations of various patterns on their surfaces; as currently provided for in items 606.7900 and 606.8100 of the *Tariff Schedules of the United States Annotated* (TSUSA).

2. the term "hot-rolled carbon steel bars" covers hot-rolled carbon steel products of solid section not conforming completely to the respective specifications given in the headnotes to Schedule G, Part 2, Subpart B of the TSUSA for blooms, billets, slabs, sheet pads, wire rods, plates, sheets, strip, wire, rails, joint bars or tie plates which have cross-sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons; as currently provided for in items 606.8310, 606.8330, 606.8350, and 606.8600 of the TSUSA. Includes flat hot-rolled carbon steel products in coils or cut to length with a width of 8 inches or less and a thickness of 0.1875 inch or more.

3. the term "hot-rolled carbon steel bar-size shapes" covers hot-rolled carbon steel angles, shapes and sections, not drilled, not punched and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule G, Part 2, Subpart B of the TSUSA for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates or any tubular products set forth in the TSUSA having a maximum cross-sectional dimension of less than 3 inches, as currently provided for in items 609.8050, 609.8070 or 609.8090. This definition includes carbon steel angles, channels, special sections and other assorted carbon steel shapes with a maximum cross sectional dimension of less than 3 inches.

[FR Doc. 84-21958 Filed 8-16-84; 8:45 am]
BILLING CODE 1505-01-M

Minority Business Development Agency

Financial Assistance Application Announcement; Illinois

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its competitive Minority Business Development Center (MBDC) Program to operate a MBDC for a 12-month period, from January 1, 1985 to December 31, 1985 in the Chicago Standard Metropolitan Statistical Area (SMSA). The total cost for the MBDC will be $556,524 which will consist of a maximum of $473,045 Federal funds and a minimum of $83,479 non-Federal funds (which can be a combination of cash, in-kind contribution and fees for service).

The funding instrument for the MBDC will be a cooperative agreement and is open to all individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients in areas related to the establishment and operation of business. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from information and assistance to and about minority businesses are funneled.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 12-month period with a two-year noncompeting continuation option. MBDCs shall be required to contribute at least 25% of the total program costs through non-Federal funds during each of the two option years. The noncompeting continuation application kit will be sent to an MBDC (who is performing at a satisfactory level or better) approximately 120 days prior to the last day of the initial award period. The MBDC should fill out and mail the continuation application to their approximate MBDA regional office. After receipt of the continuation application kit by MBDA, the MBDC's option will be reviewed and awarded each year at the direction of MBDA based on its needs, availability of funds and the applicant's satisfactory performance.

DATE: *Closing date:* The closing date for applications is October 26, 1984. Any applications must be postmarked on or before October 26, 1984.

ADDRESS: Chicago Regional Office, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

FOR FURTHER INFORMATION CONTACT: Richard H. Sewing, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants, will be held at the Federal Building—219 South Dearborn Street—Room 1221—Chicago, Illinois on October 1, 1984, at 10:00 a.m.

(Catalog of Federal Domestic Assistance, 11.800 Minority Business Development)

Dated: August 31, 1984.

Edward Bryant,

Acting Regional Director.

[FR Doc. 84-23671 Filed 9-6-84; 8:45 am]
BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council will meet in Anchorage, Alaska, September 25–28, 1984. The agenda includes the election of Council officers, setting preliminary harvest levels for groundfish and their apportionments to domestic and foreign fishermen for 1985, extension of an emergency closure for sablefish in Southeast Alaska Federal cul-de-sacs, emergency regulations to raise the bycatch limit on halibut by domestic trawlers, a ban on using pots for sablefish in Southeast Alaska, and various analyses of the incidental catches in the trawl fisheries. They will discuss joint venture permit restrictions and adopt policies governing review of foreign vessel permit applications and allocations. The Council will review Portugese permits for directed fishing and joint ventures in 1984.

Other agenda topics are a discussion of halibut management, comprehensive management goals for Council-managed fisheries, groundfish data programs, Advisory Panel operations, responses to a request for proposals for offshore herring research, and an industry request for a Secretarial plan for herring management.

On September 26, the Council will meet with the Alaska Board of Fisheries to review proposals for Tanner crab regulations including exclusive areas and pot limits. The Council will review

Tanner crab Amendment 9 to decide if further action is needed.

The Council's Scientific and Statistical Committee (SSC) and its Advisory Panel (AP) will meet in Anchorage September 24–25 to discuss the same subjects. Plan team and workgroup meetings may be held on short notice during the Council meeting, and will be announced at the Council offices. A detailed agenda for the Council meeting will be available about September 10.

The Council and its SSC may announce closed sessions during the week to discuss personnel matters. All meetings will be held at the Old Federal Building, 605 W 4th Avenue in Anchorage, and are open to the public, except for closed sessions. For further information, contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone: (907) 274–4563.

Dated: August 29, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–23790 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council's Plan Team for Tanner crab will meet in Kodiak on September 6, 1984 at 1 p.m. The meeting will be held at the Alaska Department of Fish and Game office. The team will discuss a draft report on exclusive registration areas and pot limits in the Tanner crab fishery being prepared for discussion at the joint meeting of the North Pacific Council and Alaska Board of Fisheries September 26, in Anchorage. For further information contact Raymond E. Baglin, Jr., National Marine Fisheries Service, c/o Alaska Department of Fish and Game, P.O. Box 686, Kodiak, AK 99615, telephone: (907) 486–4791.

Dated: August 31, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–23789 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Pacific Fishery Management Council's Plan Development Team will meet in Rancho Cordova, California, on September 24–26, 1984 to critically review and improve the form and content of their annual data report, establish a schedule and responsibilities for the development and completion of the 1985 report, and discuss team responsibilities under the Framework Amendnemt. The meeting is open to the public. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill St., Portland, OR 97201, telephone: (503) 221–6352.

Dated: August 31, 1984.

Roland Finch,

Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–23788 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Wool Textile Products Produced or Manufactured in Macau

September 4, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 10, 1984. For further information contact Ross Arnold, International Trade Specialist (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984, between the Governments of the United States and Macau provides for percentage increases in certain limits during an agreement year (swing). Under the terms of the bilateral agreement, the restraint limit previously established for wool textile products in Category 445/446 is being adjusted for swing, increasing the limit from 70,672 dozen to 74,206 dozen for the agreement year which began on January 1, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 4, 1984.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On January 18, 1984, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of certain cotton, wool and man-made fiber textile products exported during the twelve-month period beginning on January 1, 1984 and extending through December 31, 1984, produced or manufactured in Macau, in excess of designated restraint limits. The Chairman further advised you that limits are subject to adjustment.[1]

Effective on September 10, 1984, paragraph 1 of the directive of January 18, 1984 is hereby amended to include an adjusted restraint of 74,206 dozen[2] for wool textile products in Category 445/446.

The action taken with respect to the Government of Macau and with respect to imports of wool textile products from Macau has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–23754 Filed 9–6–84; 8:45 am]

BILLING CODE 3510–DR–M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984, between the Governments of the United States and Macau which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits may be exceeded by designated percentages; (2) specific limits may be increased for carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to account for any imports after December 31, 1983.

Increasing the Import Limits for Certain Cotton Textile Products Produced or Manufactured in Egypt

September 4, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 10, 1984. For further information contact Eve Anderson, International Trade Specialist (202) 377–4212.

Background

A CITA directive dated July 19, 1984 established specific restraint limits for certain categories of cotton textiles and textile products, including Categories 301 (cotton yarn) and 313 (cotton sheeting), produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1984. (See 49 FR 30005). In the CITA directive published below the limit for Category 301 is being increased to 1,240,000 pounds by the application of swing provided under the terms of the Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as extended, between the Governments of the United States and the Arab Republic of Egypt. Also according to the terms of the bilateral agreement, the limit for Category 313 is being reduced from 12,500,000 square yards to 12,257,120 square yards to account for the increase applied to Category 301.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 4, 1984.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of July 19, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and textile products, produced or manufactured in Egypt.

Effective on September 10, 1984, you are directed to increase the restraint limit established for Category 301 in the directive of July 19, 1984 to 1,240,000 pounds and to decrease the restraint limit established for Category 313 to 12,257,120 square yards [1] according to the terms of the Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as extended, between the Governments of the United States and the Arab Republic of Egypt.[2]

The Committee for the Implementation of Textile Agreements has determined that this action falls with the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–23753 Filed 9–6–84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The levels have not been adjusted to account for any imports exported after December 31, 1983.

[2] The agreement provides, in part, that (1) except in Categories 300/301 and 300 and 301, among which no swing is available, during any agreement year specific limits may be exceeded by not more than six percent; provided that a corresponding reduction in square yards equivalent is made in another specific limit during the same agreement year; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Department of the Air Force

Unsolicited Mass Mailings

Notice is hereby given that the Air Force intends to establish new policy for the delivery of unsolicited mass mailings sent to the Air Force military personnel and civilian employees at their duty address on Air Force installations in the United States, Hawaii and Alaska (excluding APOs). Unsolicited mass mailings to Air Force installations overseas will not be accepted. A mass mailing is defined as twenty or more pieces received from the same mailer on any one day. To be eligible to receive delivery service by the Air Force, mailers must first obtain appropriate personnel lists in accordance with published policies on release of those lists under the Freedom of Information Act (FOIA). Upon release of the requested listing, the mailer must contact the Chief, Base Administration at each installation targeted for delivery and request authorization to forward a mass mailing to that base. The request must be in writing and state the approximate time frame of delivery, number of pieces to be mailed, and documented evidence that the listing was officially released to the mailer. Mail must be properly addressed to include a valid organization and Functional Address Symbol. The Chief, Base Administration will respond to the mailer's request in writing with mailing and/or processing instructions. Mass mailings of twenty or more pieces will be returned to the servicing post office as "Undeliverable" if any one of the following conditions is not satisfied by the mailer: provide documented evidence of FOIA release; properly address mail pieces; obtain authority for delivery from Chief, Base Administration.

It has been Air Force policy that correspondence of a personal nature, not related to an individual's official duties, was not deliverable at their duty address. While, in general, this policy still applies, exceptions may be made for correspondence of such nature that is not merely advertising or soliciting, but offers a clear benefit to the individual. On a test basis delivery of unsolicited mass mail was made at certain Air Force installations for one year. The recently concluded test revealed there was some impact on Air Force resources including increased cost where mail processing and delivery systems were operated by contractors. The Air Force is still studying the possibility of assessing a user charge for providing the service.

For Further Information Contact: Steven M. Fried, HQ USAF/DAQA, Bolling AFB DC 20332. Telephone (202) 767–4197.

Harry C. Waters,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 84–23749 Filed 9–6–84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board, Ad Hoc Committee on Terminal Guidance Technology Options; Meeting

August 24, 1984.

The USAF Scientific Advisory Board Air Force Ad Hoc Committee on Terminal Guidance Technology Options will meet on the 26th and 27th of September in Johnson Hall at Eglin AFB Florida. On 26 September the meeting will begin at 8:30 a.m. and end at 5:00 p.m. On 27 September the meeting will begin at 8:30 a.m. and end at 3:30 p.m.

kThe purpose of the meeting will be to assess to technical maturity of several weapons guidance programs.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically, subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202/697–8404.

Harry C. Waters,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 84–23646 Filed 9–6–84; 8:45 am]

BILLING CODE 3910–01–M

Performance Review Boards List of Members

Below is a listing of an additional individual who is eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Others

BG Robert B. Plowden, Jr.

Harry C. Waters,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 84–23647 Filed 9–6–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Meeting Changes

The following changes have occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Nondevelopmental C3I, which was originally announced in the **Federal Register** issue of Thursday, August 23, 1984 (49 FR 33474), FR Doc. No. 84–22351:

Meeting Dates: Tuesday and Wednesday, 25 and 26 September 1984 (instead of Tuesday and Wednesday, 18 and 19 September 1984).

Place: Science & Technologies Associates, Inc., 1700 N. Moore Street, Arlington, VA instead of at the Pentagon, Washington, D.C.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 84–23703 Filed 9–4–84; 1:32 pm]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Tuesday and Wednesday, 16 and 17 October 1984.

Times of Meeting: 0830–1700 hours, both days (Closed).

Place: Science & Technologies Associates, Inc., 1700 N. Moore Street, Arlington, VA.

Agenda: The Army Science Board Ad Hoc Subgroup on Non-developmental C3I Items will meet in an Executive Session to write its final report. The purpose of the study is to effect an increase in the purchase of "off the shelf" equipment for the Army. 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 contact for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 84–23702 Filed 9–6–84; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Corps of Engineers, Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Shorelands Project, Regulatory Permit Application No. 15283E59, Alameda County, CA

AGENCY: San Francisco District, Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. *Proposed Action:* The Shorelands Corporation, Hayward, California has applied for a Department of the Army permit under section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and under section 404 of the Clean Water Act (33 U.S.C. 1344) to construct a horse racing facility, recreation or theme park, and other commercial development at the Baumberg Tract in the city of Hayward, Alameda County, California. The overall project involves 1218.8 acres, including 708.8 acres to be developed for commercial uses and 510 acres to be dedicated by The Shorelands Corporation for public parks and open space. The San Francisco District, Corps of Engineers and the City of Hayward will prepare a joint federal/state environmental impact document (Environmental Impact Report/ Environmental Impact Statement) for the proposed project pursuant to the National Environmental Policy Act and the California Environmental Quality Act.

2. *Alternatives:* The alternatives being considered by the Corps of Engineers at this time are:

a. Permit denial (No Corps of Engineers action)
   (1). No project
   (2). Alternative location(s) for proposed project or project components
b. Proposed project with racetrack and theme park
c. Proposed alternate land use plan with research and development complex in place of racetrack and theme park
d. Reduced project at proposed location

Additional alternatives identified during the scoping process will also be considered in the EIR/EIS.

3. *Scoping Process:*

a. Two scoping meetings will be held on Thursday, Septemnber 27, 1984 at the City Council Chambers, Hayward City Center Buiding, 22300 Foothill Boulevard, Haward, California. The first meeting will be held at 2:30 P.M. and the second at 7:00 PM. Two sessions are being held in order to facilitate participation by both agency personnel and members of the public. Government agencies, public and private interest groups, and the public are invited to participate in the scoping process by attending one of the scoping meetings. The purpose of the scoping meetings is to identify significant issues and alternatives to be considered in depth in the Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS).

Any person may also participate in the scoping process by submitting written comments to the Corps of Engineers. Comments should be addressed to the District Engineer, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California, 94105 and received within 30 days of the date of this notice.

b. The significant issues which have been identified to date and which will be analyzed in the EIR/EIS include impacts on:

(1). Water quality and hydrology
(2). Air quality
(3). Energy use
(4). Noise conditions
(5). Wildlife and habitat
(6). Aesthetics
(7). Traffic conditions
(8). Geological and seismological hazards
(9). Land use
(10). Employment and commercial activity
(11). Public services and utilities
(12). Local government finance
(13). Recreation
(14). Cultural resources
(15). Social conditions
(16). Growth inducement

Additional significant issues identified during the scoping process

will also be analyzed in the EIR/EIS.

c. Environmental review and consultation as required by sections 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 and 1344); section 307 of the Coastal Zone Managment Act of 1972, as amended (16 U.S.C. 1456(c)); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order 11988, "Floodplain Management", 24 May 1977; Executive Order 11990, "Protection of Wetlands", 24 May 1977; and other applicable statutes or regulations will be conducted concurrently with the EIR/EIS process.

4. It is estimated that the draft EIR/EIS will be made available to the public on or about February 11, 1985.

5. Questions regarding the scoping process or preparation of the EIR/EIS may be directed to Scott Miner, Environmental Branch (Telephone: (415) 974–0446). General questions concerning the processing of the permit application may be directed to Bernard Lewis, Regulatory Functions Branch (Telephone: (415) 974–0424).

Dated: August 29, 1984.

Melvin M. Watanabe,

Major, Corps of Engineers, Acting District Engineer.

[FR Doc. 84–23652 Filed 9–6–84; 8:45 am]

BILLING CODE 3710–FS–M

Intent To Prepare a Draft Final Environmental Impact Statement (DEIS) for the Muscatine Island Levee District and Muscatine-Louisa Drainage District No. 13, Iowa, Local Flood Protection Project

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: .

1. *Description of Proposed Action.* Raising approximately 15 miles of existing levee and constructing approximately ½ mile of concrete floodwall to reduce flood damages to the Muscatine Island Levee District and the Muscatine-Louisa County Drainage District No. 13 in southeastern Iowa is being considered. The project site is located immediately south of Muscatine, Iowa, in Muscatine and Louisa Counties from approximate Mississippi River Mile 455 to River Mile 442. If feasible, approximately 1,000,000 cubic yards of hydraulic borrow will be obtained from Mississippi River main channel and backwater areas. When practical, extension of the levee base will be landward. Approximately 30,000 acres of commercial/industrial, residential, and agricultural land will receive increased protection.

2. *Alternatives for the Proposed Action.* Alternatives which have been considered include No Federal Action, Evacuation, Floodproofing, two plans to direct portions of floodflows to the Illinois side of the river, levee raises on both the Iowa and Illinois sides of the river, and three plans to protect subsections of the study area with ring levees.

3. *Public Involvement.* Seven meetings and hearings to determine needs and concerns have been held over the course of the study involving the general public and local sponsors. In addition, prior circulation of environmental documentation has resulted in numerous comments on the study. The Draft Environmental Impact Statement will be sent to Federal, State, and local government agencies, as well as private groups and individuals for comment. Coordination with interested agencies, groups, and individuals will be maintained during preparation of environmental documents.

4. *Elements to be Addressed in the Draft and Final Environmental Impact Statement (EIS).* The Draft and Final EIS will address raising the existing levee with extension of the levee base landward when practical. The project is subject to the Fish and Wildlife Coordination Act, the Historical Preservation Act, the Endangered Species Act, Executive Order 11988 on Flood Plain Management, and Executive Order 11990 on Wetlands. If required under section 404 of the Clean Water Act, an evaluation report will be prepared and public notices issued. Requirements under section 401 of the Act will be met.

5. *Estimated Release Date.* The Draft EIS will be released for public review on or about 15 October 1984.

6. *Correspondence.* Questions about the proposed action and the Draft Environmental Impact Statement should be sent to the following address: District Engineer, U.S. Army Engineer District, Rock Island, Atten: Planning Division, Clock Tower Building—P.O. Box 2004, Rock Island, Illinois 61204–2004.

Dated: August 30, 1984.

Arthur E. Miller,

Lieutenant Colonel, Corps of Engineers, Acting District Engineer.

[FR Doc. 84–23672 Filed 9–6–84; 8:45 am]

BILLING CODE 3710–HV–M

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Operation and Maintenance of the Pearl River Waterway, LA and MS, Project

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY:

1. *Proposed Action:* The proposed action includes developing alternative plans for resumption of operation and maintenance activities on the West Pearl River in Louisiana and Mississippi.

2. Several alternatives are being considered for resumption of the operation and maintenance activities. The DEIS will include an evaluation of the environmental, social, economic, and engineering impacts associated with each alternative plan. The following alternatives are being considered:

a. *No Action.* This alternative will be the without-project condition as determined by the most probable future in the absence of a Federal project and from which impacts of other alternatives will be measured.

b. *Dredging and Clearing and Snagging.* Various channel alignments and dredging and disposal options will be considered as well as snagging alternatives during the study.

3. *Scoping Process:*

a. The scoping process as defined in the National Environmental Policy Act regulations contained in the 29 November 1978 **Federal Register** is being used throughout the study.

b. The DEIS will contain evaluations concerning project effects on bottomland hardwood forests; wildlife resources; fishery resources; prime and unique farmlands; threatened, endangered, or uncommon species; businesses; residences; and other cultural resources.

4. *DEIS Publication Date:* The current study schedule estimates that the DEIS will be available to the public in November 1984.

ADDRESS: Questions concerning the proposed action and DEIS can be answered by: Mr. Marvin Cannon, U.S. Army Corps of Engineers, Vicksburg District, ATTN: LMKPD–Q, P.O. Box 60, Vicksburg, Mississippi 39180–0060, Telephone: FTS 542–5437, Commercial (601) 634–5437.

Dennis J. York,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84–23726 Filed 9–6–84; 8:45 am]

BILLING CODE 3710–PU–M

Defense Logistics Agency

Privacy Act of 1974; Republication of System Notices

Correction

In FR Doc. 84–20097 beginning on page 30834 in the issue of Wednesday, August 1, 1984, make the following corrections:

1. On page 30836, in the first column, immediately above the heading "SYSTEM NAME:", insert **"S111.11DLA–KS".**

2. On page 30840, in the first column, immediately above the heading "SYSTEM NAME:", insert **"S160.50DLA–T".**

3. On page 30842, in the middle column, immediately above the heading "SYSTEM NAME:", insert **S164.40DLA–T".**

4. On page 30845, in the middle column, under "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:", in the third line, "somed" should read "some".

5. On page 30851, in the middle column, under "PURPOSE(S):", in the fourth line, "othewise" should read "otherwise". In the seventh line "perparing" should read "preparing".

6. On page 30857, in the middle column, immediately above the heading "SYSTEM NAME:", insert **"S322.53DLA–LZ".**

7. On page 30861, in the third column, under "CATEGORIES OF RECORDS IN THE SYSTEM:", in the ninth line, "apeal" should read "appeal".

8. On page 30862, in the first column, under "RETENTION AND DISPOSAL:", in the third line, "precident" should read "precedent". In the eighth line, "yeas" should read "years".

9. On page 30868, in the middle column, **"S308.01 DLA–K"** should read **"S380.01DLA–K".**

10. On page 30869, in the first column, immediately above the heading "SYSTEM NAME:", insert **"S380.20DLA–K".**

11. On page 30871, in the middle column, under "CATEGORIES OF RECORDS IN THE SYSTEM:", in the third paragraph, in the fifth line, "chranological" should read "chronological".

12. On page 30873, in the middle column, immediately above the heading "SYSTEM NAME:", insert **"S491.10DLA–K".**

13. On page 30874, in the middle column, under "RECORD SOURCE CATEGORIES:", in the seventh line, "bccharacteristics" should read "characteristics".

14. On the same page, in the third column, under "CATEGORIES OF RECORDS IN THE SYSTEM:", in the eighth line, "vevocations" should read "revocations".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council; Marine Task Group of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the Marine Task Group of the Committee on the Strategic Petroleum Reserve will meet in September 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Marine Task Group will hold its fifth meeting on Tuesday, September 11, 1984, starting at 9:00 a.m., in Room 3013, Chevron Corporation, 555 Market Street, San Francisco, California.

The tentative agenda for the Marine Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review NPC Strategic Petroleum Reserve draft report.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Marine Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Marine Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washisngton, D.C., on August 29, 1984.

William A. Vaughan,

Assistant Secretary, Fosil Energy.

[FR Doc. 84–23759 Filed 9–6–84; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve will meet in September 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Coordinating Subcommittee will hold its fifth meeting on Monday, September 17, 1984, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, D.C.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review of writing assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading

Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Firday, except Federal holidays.

Issued at Washington, D.C., on August 29, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84–23760 Filed 9–6–84; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve will meet in October 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Coordinating Subcommittee will hold its sixth meeting on Thursday, October 11, 1984, starting at 9:00 a.m., in Suite Two of Suite 66 of the Pier 66 Hotel and Marina, 2301 SE. Seventeenth Street, Fort Lauderdale, Florida.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review of writing assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 29, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy

[FR Doc. 84–23761 Filed 9–6–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP84–119–000]

Algonquin Gas Transmission Co.; Rate Schedule F–1: Increase in Maximum Annual Quantity

August 31, 1984.

Take notice that Algonquin Gas Transmission Company ("Alognquin Gas") on August 24, 1984 tendered for filing Second Revised Sheet No. 306 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Second Revised Sheet No. 306 increases the Maximum Annual Quantity for Rate Schedule F–1 from the long-established 270 day use of the contract demand to 275 days. The presently effective provision of 280 days represents a one-year limited term increase established on an experimental basis in settlement of the rate proceeding at Docket No. RP83–44. The temporary provision expires on August 31, 1984.

Algonquin Gas proposes the effective date of Second Revised Sheet No. 306 to be September 1, 1984.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 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 September 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–23791 Filed 9–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–660–000]

Arkansas Louisiana Gas Co.; Request Under Blanket Authorization

August 31, 1984.

Take notice that on August 23, 1984, Arkansas Louisiana Gas Company (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP84–660–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to transport natural gas on behalf of International Paper Company (IPC) under the authorization issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Arkla proposes to transport up to 9,120 Mcf of gas per day for use in IPC's industrial plant in Camden, Arkansas, until the earlier of the following dates occurs: (1) One year from the date of commencement of transportation service; (2) June 19, 1985; or (3) the date that Arkla receives and accepts certificate authorization for the long-term transportation of gas for IPC as requested in Docket No. CP84–580–000. It is stated that the gas to be transported would be purchased from Vesta Energy Company (Vesta) and would be used for the production of paper products and plant protection. It is indicated that Arkla would receive the gas at existing interconnections with Vesta in Johnson, Franklin and Pope Counties, Arkansas, and Pittsburg County, Oklahoma.

Arkla states that it would charge the currently applicable transportation rate in accordance with its ECOSHARE Transportation Rate Schedule, FERC Gas Tariff, First Revised Volume No. 2.

Arkla also requests flexible authority to add and/or delete sources of gas and/or receipt or delivery points. With respect to such flexible authority Arkla states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt or delivery points, to file with the Commission the following information:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement as to whether the gas is committed or dedicated within the meaning of NGPA Section 2(18);

(5) If the new source of supply involves release gas which is committed or dedicated as defined in No. 4, reference the suppliers' Natural Gas Act Section 7(b) abandonment authorization is required, explain;

(6) Location of the receipt/delivery points being added or deleted;

(7) Identity of any other pipeline involved in the transportation.

Arkla submits that any changes made pursuant to such flexible authority would be on behalf of the same end-user at the same end-use location and would remain within the daily and annual volumes levels proposed herein.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23792 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-118-000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Filing of Rate Schedule

August 31, 1984.

Take notice that on August 23, 1984, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla) tendered for refiling its Rate Schedule No. ECOSHARE-AIC. Arkla states that this refiling is in response to the Director letter of July 30, 1984, which rejected a prior version of this rate schedule filed on July 6, 1984. This refiled rate schedule includes the added incentive charge permitted under § 157.209(f) of the Federal Energy Regulatory Commission's (Commission) regulations.

This filing includes: Original Sheet Nos. 223 and 224 to be a part of Arkla's FERC Gas Tariff, First Revised Volume No. 2; a statement of reasons for the rate schedule; a statement showing estimated revenues; and a statement showing the basis of the rate or charge.

Arkla proposes that the effective date be the date of the filing, or if this is not possible, then 30 days thereafter. Arkla requests any waivers necessary to put this filing into effect as soon as possible.

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

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23793 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-15-000; Docket No. ER84-525-000]

Boston Edison Co. et al.; Order Authorizing Sale of Facilities and Terminating Docket, Accepting for Filing and Suspending Notice of Cancellation and Related Termination Payments, Granting Waiver of Notice, Granting Interventions, and Establishing Hearing Procedures

Issued August 31, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On April 9, 1984, in Docket No. EC84-15-000, Boston Edison Company (Boston Edison), together with Public Service Company of New Hampshire, United Illuminating Company, and New England Power Company (Joint Applicants) filed an application, pursuant to section 203 of the Federal Power Act, seeking authorization for the Joint Applicants to sell to Boston Edison certain switchyard facilities associated with the cancelled Pilgrim Nuclear Unit No. 2 project. These facilities were originally sold by Boston Edison to the various sponsors of Pilgrim Unit No. 2 [1] in 1975, and are now being reconveyed to Boston Edison because the switchyard facilities are of no continuing use to the sponsors of Pilgrim No. 2, given the November 1, 1982 cancellation of that unit. The reconveyance of the switchyard facilities is part of an overall agreement among the unit sponsors to reconvey all land and common facilities [2] associated with Pilgrim No. 2 to Boston Edison. Under the agreement, Boston Edison is to pay each sponsor its respective share of the depreciated cost of the switchyard facilities plus 50 percent of the local property taxes and carrying charges related to the facilities, plus interest at the weighted average interest rate of 90-day Treasury Bills from November 1, 1982, until the closing date of the sale.[3] The filing parties request that the facility sale and purchase be made effective as of November 1, 1982. This effective date has been requested in order to provide for project determination on an internally consistent basis, the parties having agreed that all elements of the agreement for reconveyance will be made effective as of that date.

On July 2, 1984, in Docket No. ER84-525-000, Boston Edison tendered for

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[1] In addition to the Joint Applicants, there were ten other owner/sponsors of Pilgrim No. 2: Massachusetts Municipal Wholesale Electric Company; Town of Hudson, Massachusetts; City of Burlington, Vermont; Fitchburg Gas and Electric Light Company; Taunton Municipal Lighting Plant; Vermont Electric Generation and Transmission Cooperative, Inc. (formerly Vermont Electric Cooperative, Inc.); Montaup Electric Company; Commonwealth Electric Company (formerly New Bedford Gas and Edison Light Company); Central Maine Power Company; and Central Vermont Public Service Company. These other sponsors are not parties to the application in this docket, either because they are exempt from Commission jurisdiction or because the value of the switchyard facilities attributable to them is less than $50,000, the threshold amount for an application to sell facilities under section 203.

[2] Common facilities are defined in the Pilgrim Unit No. 2 Agreement as those facilities owned by Boston Edison and constructed in connection with Pilgrim Unit No. 1 which will also serve Pilgrim No. 2. Besides the switchyard facilities, the common facilities include facilities such as the seawall and related waterfront construction, the station water supply and fire protection systems, waste processing systems and offices. However, under sections 201(b) and 203 of the Federal Power Act, only that portion of the transaction relating to the transmission facilities is subject to the Commission's jurisdiction.

[3] The reconveyance payment for switchyard facilities, exclusive of interest, totals $748,752 for all of the owner/sponsors, and $327,650 for the Joint Applicants in this case.

filing a notice of cancellation terminating its transmission agreement among the sponsors of the Pilgrim No. 2 project.[4] The agreement provided for the sharing of costs associated with certain Boston Edison-owned transmission facilities constructed for the Pilgrim No. 2 project.[5] Under the agreement, each of the sponsors was responsible for a proportion of the transmission facility costs equal to its ownership share of Pilgrim No. 2. With the cancellation of the unit, the need for the associated transmission agreement no longer exists. Boston Edison states that, in consideration for its investment in the Pilgrim No. 2 transmission facilities, the sponsors are to make proportionate lump-sum termination payments to Boston Edison, totalling $2,939,735, which represents the unamortized cost of the non-energized portion of the Pilgrim No. 2 transmission facilities as of November 1, 1982. Since the termination payment related to the cancellation is contained in the Agreement for Reconveyance submitted in Docket No. EC84–15–000, Boston Edison has incorporated the relevant portions of that agreement by reference into its submittal in Docket No. ER84–525–000. Boston Edison has also requested an effective date of November 1, 1982, in Docket No. ER84–525–000, coincident with the effective date requested in Docket No. EC84–15–000.

Notice of the application in Docket No. EC84–15–000 was published in the **Federal Register** with comments due on or before May 1, 1984. On June 20, 1984, the Attorney General of the Commonwealth of Massachusetts (Attorney General) moved to intervene out of time, asserting that that office had only recently determined that intervention was possible in terms of its available resources. The Attorney General questions the reasonableness of the proposed termination payments for the Pilgrim No. 2 transmission facilities, in light of regulatory proceedings in which the prudence of Pilgrim No. 2 costs has been at issue.[6] On June 25, 1984, the Massachusetts Department of Public Utilities (MDPU) moved to intervene out of time in the same docket, claiming that it had only recently become aware of the proceeding. The MDPU also alleges that the proposed purchase price for the switchyard facilities improperly includes costs which the MDPU has found to have been imprudently incurred. Boston Edison filed separate answers to the pleadings of the Attorney General and the MDPU, opposing their late interventions and denying their allegations.

Notice of the cancellation notice filed in Docket No. ER84–525–000 was published in the **Federal Register**, with comments due on or before July 26, 1984. No additional pleadings have been filed in that docket.

Discussion

Initially, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), we shall grant the untimely interventions of the Attorney General and the MDPU. Although we agree with Boston Edison that neither the Attorney General nor the MDPU has presented a particularly compelling reason for its late filing, we find that good cause exists to grant them intervenor status, given the interests of the constituencies which they represent, as well as the very early stages of these proceedings and our belief that no undue prejudice or delay should result.

While no interventions have been received in Docket No. ER84–525–000, we note that the Attorney General's intervention in Docket No. EC84–15–000 deals exclusively with the propriety of the proposed termination payments for the cancelled transmission agreement, rather than the sale of the switchyard facilities. Since both dockets appear to be inextricably interrelated and in view of the fact that portions of the filing in Docket No. EC84–15–000 have been incorporated by reference in Docket No. ER84–525–000, we shall consider the Attorney General's pleading to request intervention in both dockets and we shall grant intervenor status in each.[7]

The MDPU objects to the reconveyance of the switchyard facilities on the basis that the purchase price includes costs which it found to have been imprudently incurred, *i.e.*, costs incurred after June 30, 1980, after which further investment in the Pilgrim No. 2 project was deemed imprudent by the MDPU. However, our examination reveals that the purchase price is not based upon any construction costs or expenses incurred after June 30, 1980; rather, the basis for reconveyance is the same as that used for the original sale, the net book cost plus carrying charges and property taxes [8] to the date of conveyance. Therefore, the MDPU has not raised a valid objection to the proposed purchase price of the switchyard facilities.

Furthermore, the facilities in question were built prior to 1975 as part of the original Pilgrim site which is owned by Boston Edison. The sponsor utilities have no need for these facilities now that Pilgrim No. 2 has been cancelled. Thus, the application merely returns the facilities to the original owner and sole operator of the remaining facilities at the Pilgrim site. In addition, we find that the proposed accounting treatment for the reconveyance of the switchyard facilities conforms with the Commission's Uniform System of Accounts. In light of these considerations, we find that the proposed sale is consistent with the public interest and we shall approve the application pursuant to section 203 of the Federal Power Act.

With respect to Docket No. ER84–525–000, we note that the Attorney General's particular concerns with the transmission termination payments are unclear from his pleading. However, insofar as he references the MDPU decision discussed above, it appears likely that he is contending that the termination payments are unreasonable to the extent that they reflect any investments related to Pilgrim No. 2 after June 30, 1980. Inasmuch as the transmission facilities were built by Boston Edison for the benefit and use of the project sponsors, a termination payment equal to Boston Edison's unamortized investment appears to be reasonable as a general matter, and no party has disputed the general basis for determining the termination payment here. Nonetheless, we are unable to determine whether the proposed termination payments (effective as of November 1, 1982) reflect any costs incurred after June 30, 1980, as objected to by the Attorney General. We shall therefore set this matter for hearing to determine, among other things, whether the termination payments include or

[4] The rate schedule designation for Docket No. ER84–525–000 is: *Boston Edison Company*, Supplement No. 9 to Rate Schedule FPC No. 105 (Cancels Rate Schedule FPC No. 105, as supplemented).

[5] The transmission facilities subject to the transmission agreement include: One 345 kV circuit, the right of way allocable to such circuit, terminal facilities at the Holbrook Station, and one-half of the investment in supporting structures for the 345 kV circuit.

[6] The Attorney General notes that the Massachusetts Department of Public Utilities has disallowed certain Pilgrim No. 2 costs based on imprudence in *Boston Edison Company* (D.P.U. 906 (1982)) and that the issue of imprudence is currently before this Commission in *New England Power Company*, Docket Nos. ER82–703–000, *et al.* (Initial Decision issued May 5, 1984, 27 FERC ¶ 63,037).

[7] We shall also construe the MDPU's pleading to be a request for intervention in both dockets in the interest of avoiding another round of pleadings requesting and objecting to later interventions.

[8] The original transfer by Boston Edison to the sponsor utilities was authorized by the Commission by order issued on July 18, 1975, in Docket No. E–9340. We note that, by agreement among the parties, Boston Edison will reimburse the sponsor utilities for only one-half of the applicable property taxes and carrying charges.

reflect investments incurred after June 30, 1980; whether such investments were prudently incurred; the extent to which prudence or imprudence is to be applied to all joint participants; and whether the termination proposal is reasonable.

Our preliminary review of Boston Edison's submittal and the pleadings in Docket No. ER84–525–000 indicates that the proposed termination charge has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Boston Edison's notice of cancellation and associated termination charge for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for a nominal period where preliminary review indicates that the proposed charges may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. Our examination of Boston Edison's proposed termination charge indicates that it may not yield substantially excessive revenues. Further, although generally the Commission has suspended notices of cancellation for the full five months allowed by statute in order to provide for the continuation of service, no service has ever been provided under Boston Edison's transmission agreement and none is required. Consequently, suspension will serve the singular purpose of establishing refund protection concerning the termination payments. We shall, therefore, waive the notice requirements and suspend the notice of cancellation and associated termination charge for a nominal period, to become effective on November 2, 1982, subject to refund.

The Commission orders

(A) The interventions of the Attorney General and the MDPU in Docket Nos. EC84–15–000 and ER84–525–000 are hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) The application for authorization to sell certain switchyard facilities filed in Docket No. EC84–15–000 is hereby approved upon the terms and conditions set forth in the application and subject to the provisions of the Commission's Uniform System of Accounts.

(C) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of cost or any other matter whatsoever now pending or which may come before the Commission.

(D) Docket No. EC84–15–000 is hereby terminated.

(E) Boston Edison's notice of cancellation and associated termination charges in Docket No. ER84–525–000 are hereby accepted for filing and waiver of the notice requirements is hereby granted. The submittal is suspended for a nominal period, to become effective, subject to refund, on November 2, 1982.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the transmission agreement cancellation and the termination charge.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–23794 Filed 9–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA85–1–32–000 and TA85–1–32–001]

Colorado Interstate Gas Co.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

August 31, 1984.

Take notice that Colorado Interstate Gas Company (CIG), on August 15, 1984, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1984. The decreased jurisdictional cost to CIG of purchased gas proposed by the filing amounts to approximately $19.8 million below the rates which were effective on January 1, 1984, in Docket No. TA84–1–32–003. Due to the absence of any projected maximum surcharge absorption capability on CIG's system, no reduction in CIG's Estimated Actual Cost of Purchased Gas for incremental pricing purposes is reflected in the filing.

Copies of this filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

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, DC 20426, 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 September 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84–23795 Filed 9–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–117–000]

Southwest Gas Corp.; Filing

August 30, 1984.

Take notice that on August 20, 1984, Southwest Gas Corporation (Southwest) filed a letter with the Federal Energy Regulatory Commission (Commission) requesting Commission authorization to continue its current purchased gas cost adjustment (PGA) applicable to northern Nevada schedules for one additional month and to file and place into effect its next PGA adjustment concurrently with Northwest Pipeline Corporation's (Northwest) PGA filing. An effective date of November 1, 1984 is requested. Northwest is the sole pipeline supplier to Southwest's northern Nevada service area.

Southwest states that it has discussed this with its FERC jurisdictional customers and they support Southwest's requests.

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 Streel, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 5, 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 are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23796 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-120-000]

West Texas Gas, Inc.; Motion for Extension of Time and Waiver of Notice Requirements

August 31, 1984.

Take notice that on August 24, 1984, West Texas Gas, Inc. (WTG) filed a Motion For Extension Of Time And Waiver Of Notice Requirements. WTG requests a 45-day extension of time until October 1, 1984 within which to submit its annual purchased gas adjustment (PGA) filing, originally due August 15, 1984. WTG also requests that its PGA filing be made effective on less than 30 days notice.

WTG states that for the past several months its employees have had to focus all their efforts in transferring the Dalhart System from Peoples Natural Gas Company, a Division of InterNorth, Inc., to WTG. Because of this, WTG has not been able to compile the necessary information required for the August 15th filing date. WTG asserts that this should not be a recurring problem, thus permitting timely PGA filings in the future.

WTG indicates that it may be necessary to increase its current rates. However, this proposed increase is not expected to be greater than 5% of WTG's current rates. An effective date of October 1, 1984 is requested. WTG submits that this will not harm its two jurisdictional customers, Southern Union Gas Company and Felt Water Development Company.

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

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23797 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-437-005]

Colorado Interstate Gas Co.; Petition To Amend

September 4, 1984.

Take notice that on August 13, 1984, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-437-005 a petition to amend the order issued March 4, 1981, in Docket No. CP80-437 pursuant to section 7(c) of the Natural Gas Act so as to permit Petitioner to transport released gas for Sinclair Oil Corporation (Sinclair), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP80-437 it is authorized to transport 35 percent of the average daily production of certain gas supplies in Carbon County, Wyoming, which were reserved by Sinclair. Petitioner proposes to transport gas released by Petitioner, for the same wells, for Sinclair. Petitioner further proposes to transport gas it has released to Sinclair for five wells from which it was not authorized to transport. It is said that the released gas would be used by Sinclair in its Sinclair, Wyoming, refinery.

Petitioner also seeks to revise the quality specifications of the gas and to revise the transportation charge to 35.88 cents per Mcf, which is said to be based on Petitioner's rate settlement in Docket No. RP82-54

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary

[FR Doc. 84-23773 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-193-001]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

September 4, 1984.

Take notice that on August 10, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314 filed in Docket No. CP84-193-001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Empire Detroit Steel, Division of Cyclops Corporation (Empire), under 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 on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 7.5 billion Btu of natural gas per day for Empire until June 30, 1985. It is stated that the gas to be transported would be purchased from Ohio Gas Marketing (OGM) and would be used for boiler fuel and space heating in Empire's Mansfield, Ohio, plant.

It is indicated that Columbia has released certain gas supplies of OGM and that these supplies are subject to the ceiling provisions of sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978. It is further indicated that Empire has made arrangements to purchase this released gas from OGM. Columbia states that it would receive the gas from OGM and redeliver the gas to Columbia Gas of Ohio, Inc. (COH), the distributor serving Empire in Mansfield, Ohio. 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, 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 equivalent, 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.

The proposed service is a continuation of the authorization obtained previously in Docket No. CP84-193-000 which authorization will terminate September 22, 1984.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23774 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-636-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

September 4, 1984.

Take notice that on August 8, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf) 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP84-636-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia and Columbia Gulf propose to transport natural gas on behalf of Newport Steel Corporation (Newport) under the authorization issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, 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.

Columbia and Columbia Gulf propose to transport up to 3 billion Btu of natural gas per day for Newport through June 30, 1985. It is stated that the gas to be transported would be purchased from The Wiser Oil Company (Wiser) and would be used as process gas in Newport's plant in Wilder, Kentucky. It is indicated that Columbia would receive the gas from Wiser at Columbia's Greenbriar Station, near Manchester, Kentucky, and redeliver the gas to Columbia Gulf at Columbia's Bybie Measuring Station, also in Kentucky. It is further indicated that Columbia Gulf would then transport the gas to Columbia's Means Measuring Station and redeliver the gas to Columbia for transportation and ultimate redelivery to the Union Light, Heat & Power Company, the distributor serving Newport Steel near Wilder, Kentucky. It is asserted that the transportation would take place entirely in Kentucky.

For its part of the transportation, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) 40.11 cents per dt equivalent for storage and transmission, exclusive of company-use and unaccounted-for gas, or (2) 44.93 cents per dt equivalent for storage, transmission and gathering, exclusive of company-use and unaccounted-for gas. Columbia states further that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

For its part of the transportation, Columbia Gulf states that it would charge 11.16 cents per dt equivalent, excusive of company-use and unaccounted-for gas. Columbia Gulf states further that it would retain 2.58 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23775 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-65-000]

Commonwealth Edison Co.; Application

September 4, 1984.

Take notice that on August 24, 1984, Commonwealth Edison Company filed on application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $900 million of short-term promissory notes on or before December 31, 1986, with final maturities of not later than December 31, 1987.

Any person desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before September 24, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23776 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-62-000]

Kansas Gas & Electric Co.; Application

September 4, 1984.

Take notice that on August 13, 1984, Kansas Gas and Electric Company (Applicant), filed on application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to 1,000,000 shares of its authorized but unissued Common Stock, without par value pursuant to the Applicant's Dividend Reinvestment and Stock Purchase Plan.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before September 12, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23777 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-449-000]

McGrew & Associates; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 4, 1984.

On August 17, 1984, McGrew & Associates, P.O. Box 31359, 1914 North 34th Street, Seattle, Washington 98103 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 consititutes a complete filing.

The hydroelectric facility will be located near North Fork Nooksack River on Glacier Creek in Whatcom County, Washington. The electric power production capacity of the facility will be approximately 5.8 megawatts.

Any person desiring to be heard or objecting to the granting of qualifing 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 or 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 will not 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.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23778 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-443-000]

OLS Energy-Chino; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 4, 1984.

On August 9, 1984 OLS Energy-Chino (Applicant) of 450 Sansome-Suite 210, San Francisco, California 94111, 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 California Institue for Men (CIM) in Chino, California. The primary energy source will be natural gas. The facility will consist of a combustion turbine generator unit rated 19,900 kilowatts, and a heat recovery steam generator supplying an extraction turbine generator unit rated 6,500 kilowatts. The extracted steam will be used to supply the CIM's process heating load. The facility is planned for mid-1986 operation.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23779 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-447-000]

OLS Energy-Camarillo; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 4, 1984.

On August 16, 1984 OLS Energy-Camarillo (Applicant) of 450 Sansome-Suite 210, San Francisco, California 94111, 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 Camarillo State Hospital (CSH) in Camarillo, California. The primary energy source will be natural gas. The facility will consist of a combustion turbine generator unit rated 20,600 kilowatts, and a heat recovery steam generator supplying an extraction turbine generator unit rated 6,700 kilowatts. The extracted steam will be used to supply the CSH's process heating load. The facility is planned for mid-1986 operation.

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 protects 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23780 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-448-000]

Pacific Lighting Energy Systems; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 4, 1984.

On August 17, 1984, Pacific Lighting Energy Systems (Applicant), 6055 East Washington Boulevard, Suite 830, Commerce, California 90040 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 facility to be located in The Hamlet of Kings Park, Suffolk County, New York, will use as its primary energy source biomass, in the form of

biomethane obtained from a landfill. The electric power production capacity of the facility will be 1,000 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23781 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-450-000]

Pacific Lighting Energy Systems; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 4, 1984.

On August 17, 1984, Pacific Lighting Energy Systems (Applicant), 6055 East Washington Boulevard, Suite 830, Commerce, California 90040 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 facility to be located at the landfill that is a portion of Rancho Bolsa Nueva Y Moro Cojo in Monterey County, California, will use as its primary energy source biomass, in the form of biomethane obtained from the landfill. The electric power production capacity of the facility will be 1,400 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23782 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-451-000]

Pacific Lighting Energy Systems; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 4, 1984.

On August 17, 1984, Pacific Lighting Energy Systems, (Applicant), 6055 East Washington Boulevard, Suite 830, Commerce, California 90040 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 facility to be located at the landfill on 5401 Lafayette Street, Santa Clara, California, will use as its primary energy source biomass, in the form of biomethane obtained from the landfill. The electric power production capacity of the facility will be 2,000 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23783 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-453-000]

Pacific Lighting Energy Systems; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 4, 1984.

On August 17, 1984, Pacific Lighting Energy Systems, (Applicant), 6055 East Washington Boulevard, Suite 830, Commerce, California 90040 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 facility to be located at the Landfill on Smoral Road, adjacent to Cedarvale Road, in Onondaga, New York, will use at its primary energy source biomass, in the form of biomethane obtained from the landfill. The electric power production capacity of the facility will be 1,700 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23784 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-64-000]

Pennsylvania Power & Light Co.; Application

September 4, 1984.

Take notice that on August 22, 1984, Pennsylvania Power & Light Company (Applicant), filed an application with the Federal Energy Regulatory Commission pursuant to Section 204 of the Federal Power Act seeking authority to issue up to $400 million of short-term unsecured promissory notes to be issued from time to time, prior to September 30, 1987, with

a final maturity one year from date of issuance.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23785 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-28-000; FERC Nos. JD83-30112 and JD83-30113]

Sonat Exploration Co., et al.; Protest To Negative Well Determinations

Issued September 4, 1984.

On May 11, 1983, Sonat Exploration Company (Sonat) filed with the Federal Energy Regulatory Commission (Commission) a protest against the negative section 102(d) Natural Gas Policy Act (NGPA)[1] determinations issued by the Minerals Management Services (MMS) for the Chevron USA Inc. OCS–G 3020 Well Nos. 4 and 4D in Mustang Island Block 758. Sonat states that the negative determinations by MMS will cause Sonat to receive the lesser of the NGPA section 104 or 109 price for production attributable to the two wells.

Sonat argues that MMS relied on a well log of a well owned and operated by the Atlantic Richfield Company (Arco) in making its determinations on the subject wells. Based upon the well log provided by Arco, the MMS found that the reservoir underlying the 4 and 4d wells had been penetrated prior to July 27, 1976. If an OSC reservoir was penetrated prior to July 27, 1976, natural gas produced therefrom does not qualify for the new natural gas ceiling price under section 102(d). Sonat claims that it has not been afforded the opportunity to review the well log, or in other words, "to confront the evidence * * *" which Sonat claims "is a denial of due process within the meaning of the Fifth Amendment of the United States Constitution * * *."

Within 15 days of publication in the Federal Register of this Notice, any person may file a protest or a petition to intervene in this docket with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. If you wish to become a party to this proceeding, you must file a petition to intervene. See Rules 214 or 211.[2]

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23786 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-444-000]

Whitefield Power & Light Associates—New Hampshire; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 4, 1984.

On August 10, 1984, Whitefield Power & Light Associates, (Applicant) of P.O. Box 120, Nashua, New Hampshire, 03061, 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 12.5 MW facility located in Whitefield, New Hampshire, will generate electric power from biomass in the form of wood chips, bark and fines as a primary energy source. The project power is expected to be sold to Public Service Company of New Hampshire. The Applicant owns no other facility located within one mile of the proposed facility. No electric utility or electric utility holding company has any ownership interest in the facility.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-23787 Filed 9-6-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-266-6]

Availability of Environmental Impact Statements Filed August 27, 1984 Through August 31, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840388, Final FHW, OR, Mission Street Widening, 12th to 24th Streets, Marion County, Due: October 9, 1984, Contact: Dale Wilken (503) 399–5749

EIS No. 840389, Draft, EPA, LA, Southwest Pass Channel, Mississippi River, Ocean Dredged Material Disposal Site, Designation Jefferson and Plaquemines Parish, Due: October 22, 1984, Contact: William Shilling (202) 245–3036

EIS No. 840390, Draft, FHW, AK, Knik Arm Bridge Crossing Construction, Anchorage to Matanuska-Susitna Borough, Cook Inlet, Due: October 22, 1984, Contact: Tom Neunaber (907) 586–7427

EIS No. 840391, Draft, FWS, AK, Alaska Peninsula National Wildlife Refuge Management Plan, Due: November 19, 1984, Contact: William Knauer (907) 786–3399

EIS No. 840392, Draft, FS, UT, WY, Wasatch-Cache National Forest Land and Resource Management Plan, Due: December 14, 1984, Contact: Neil Hudson (801) 524–5030

EIS No. 840393, Draft, FWS, HI, Hawaiian Islands National Wildlife Refuge Management Plan, Due: October 30, 1984, Contact: Harvey Lee (503) 231–6164

EIS No. 840394, Draft, EPA, OR, Coos Bay, Ocean Dredged Material Disposal Sites, Designation, Coos County, Due: October 22, 1984, Contact: William Shilling (202) 245–3036

EIS No. 840395, Draft, EPA, LA, Calcasieu River and Pass, Ocean Dredged Material Disposal Site, Designation, Cameron County, Due: October 22, 1984, Contact: William Shilling (202) 245–3036

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[1] 15 U.S.C. 3301–3432 (1982).

[2] 18 CFR 385.211 or .214 (1983).

EIS No. 840396, Draft, BLM, CO, UT, WY, Rangely Carbon Dioxide Pipeline Project, C/O, Approval, Moffat and Rio Blanco Counties, Colorado, Daggett and Uintah Counties, Utah, and Lincoln and Sweetwater Counties, Wyoming, Due: October 30, 1984, Contact: Janis Van Wyhe (303) 234–6737

EIS No. 840397, Final, NOAA, PR, La Parguera National Marine Sanctuary, Designation, Due: Edward Lindelof (202) 634–4236.

EIS No. 840398, DSuppl, HUD, WA, Gem Heights Planned Development District, Mortgage Insurance, Pierce County, Due: October 22, 1984, Contact: Roz Glasser (206) 591–7210

Amended Notices

EIS No. 840124, DSuppl, FHW, AL, Appalachian Corridor X Construction, AL–19 to US 78, Walker and Marion Counties, Notice of Availability should have appeared in the FR dated 1–13–84 with a due date of 2–27–84.

Dated: September 4, 1984.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84–23769 Filed 9–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59170; TSH–FRL–2666–4]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: September 24, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59170]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Divison, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hammett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–80

Close of Review Period. October 17, 1984.

Manufacturer. Confidential.

Chemical. (G) Fatty Acid ester.

Use/Production. (G) Obtain consumer acceptance of a new laundry product. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

TME 84–81

Manufacturer. Confidential.

Chemical. (G) Tris aryl phosphite.

Use/Production. (G) An additive for oils, lubricants, fuels and/or plastics. Prod. range: Confidential.

Toxicity Data. Acute oral: <5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Minor, Eye—Slight; Ames Test: Negative.

Exposure. Manufacture: dermal and inhalation, a total of 70 workers, up to <1 hr/da, up to six months.

Environmental Release/Disposal. 10 to 2,000 kg/batch released to land. Disposal by POTW.

Dated: August 31, 1984.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 84–23705 Filed 9–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51535, TSH–FRL 2666–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-two PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 84–1100, 84–1101, 84–1102, 84–1103, 84–1104 and 84–1105—November 21, 1984.

PMN 84–1106 and 84–1107—November 24, 1984.

PMN 84–1108, 84–1109, 84–1110 and 84–1111—November 25, 1984.

PMN 84–1112, 84–1113, 84–1114, 84–1115, 84–1116, 84–1117, 84–1118, 84–1119, 84–1120, 84–1121 and 84–1122—November 26, 1984.

PMN 84–1123, 84–1124, 84–1125, 84–1126, 84–1127, 84–1128, 84–1129, 84–1130 and 84–1131—November 27, 1984.

Written comments by: PMN 84–1100, 84–1101, 84–1102, 84–1103, 84–1104 and 84–1105—October 22, 1984.

PMN 84–1106 and 84–1107—October 25, 1984.

PMN 84–1108, 84–1109, 84–1110 and 84–1111—October 26, 1984.

PMN 84–1112, 84–1113, 84–1114, 84–1115, 84–1116, 84–1117, 84–1118, 84–1119, 84–1120, 84–1121 and 84–1122—October 27, 1984.

PMN 84–1123, 84–1124, 84–1125, 84–1126, 84–1127, 84–1128, 84–1129, 84–1130 and 84–1131—October 28, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51535]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public

Reading Room E-107 at the above address.

PMN 84-1100

Manufacturer. Polyvinyl Chemical Industries.

Chemical. (G) Aliphatic polyurethane aqueous dispersion.

Use/Production. (S) Industrial, commercial and consumer general purpose and modifier for coatings. Prod. range: 50,000-300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 4 workers.

Environmental Release/Disposal. No release.

PMN 84-1101

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type 1 anion exchange resin, bicarbonate/carbonate form.

Use/Production. (S) Industrial water demineralization and condensate polishing. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Release to water. Disposal by navigable waterway after treatment.

PMN 84-1102

Manufacturer. Confidential.

Chemical. (G) Modified polymer of acrylates and methacrylates.

Use/Production. (G) Industrial coating (open use). Prod. range: 10,000-40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/da, up to 52 da/yr.

Environmental Release/Disposal. 5 to 45 kg/batch released to land. Disposal by incineration and landfill.

PMN 84-1103

Manufacturer. Confidential.

Chemical. (G) Terpolymer of acrylate and methacrylates.

Use/Production. (G) Formulation of coatings having a highly dispersive use. Prod. range: 212,000-248,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 36 workers, up to 8 hrs/da, up to 177 da/yr.

Environmental Release/Disposal. 5 to 60 kg/batch released to land. Disposal by incineration and landfill.

PMN 84-1104

Manufacturer. The Minnesota Mining and Manufacturing Company.

Chemical. (G) Substituted triazines.

Use/Production. (S) Industrial process aid. Prod. range: Confidential.

Toxicity Data. Acute oral: Between 100 and 500 mg/kg; Irritation: Skin—Non-irritant, Eye—Minimal; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Less than 1 to 5 kg released to air with 50 kg to water. Disposal by incineration and navigable waterway.

PMN 84-1105

Manufacturer. Confidential.

Chemical. (G) Tetra amino di-substituted metal complex.

Use/Production. (S) Industrial catalyst. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5.0 g/kg; Acute dermal: < 2.0 g/kg; Irritation: Skin—Non-irritant; Eye—Minimal; Ames Test: Not mutagenic; Skin sensitization: Non-sensitizer.

Exposure. Manufacture: dermal, a total of 2 workers, up to 3 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release.

PMN 84-1106

Manufacturer. Texaco Chemical Company.

Chemical. (G) Alkoxylated poly (oxyalkylene)diamine.

Use/Production. (S) Industrial and commercial polyurethanes. Prod. range: Confidential.

Toxicity Data. Actue oral: Male—2,930 mg/kg, Female—2,582 mg/kg, Combined—2,773 mg/kg; Acute dermal: > 8.0 gm/kg; Irritation: Skin—Very slight to moderate, Eye—Positive responses.

Exposure. Manufacture: dermal, a total of 40 workers, up to 5.45 hrs/da, up to 3.96 da/yr.

Environmental Release/Disposal. 6 to 12 kg/batch released to land. Disposal by underground injection.

PMN 84-1107

Importer. Confidential.

Chemical. (G) Copper complex of a substituted biphenyl sulfonated salt.

Use/Import. (S) Industrial direct dye for paper. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Processing: dermal, a total of 1 worker/shift, up to ¼ hr/da.

Environmental Release/Disposal. Minimal release. Disposal by on-site biological treatment plants.

PMN 84-1108

Manufacturer. Essex Specialty Products, Inc.

Chemical. (G) Polyurethane polymer.

Use/Production. (S) Polyurethane polymer for use in compounded sealants. Prod. range: 50,000-250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal and ocular.

Environmental Release/Disposal. No release.

PMN 84-1109

Manufacturer. Confidential.

Chemical. (G) Modified rosin.

Use/Production. (G) Ingredient in inks for commercial printing. Prod. range: 20,000-251,600 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 66 workers, up to 8 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. 0.2 to 110 kg/batch released to land. Disposal by incineration and approved landfill.

PMN 84-1110

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid, polymer with polytetramethylene ether glycol, 2-oxepanone, and an alkane diol.

Use/Production. (G) Thermoplastic molding resin. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal by landfill.

PMN 84-1111

Manufacturer. Owens-Corning Fiberglas Corporation.

Chemical. (G) Reacted brominated epoxy resin.

Use/Production. (G) Size ingredient. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: A total of 50 workers, up to 24 hrs/da, up to 350 da/yr.

Environmental Release/Disposal. Release to air. Disposal by publicly owned treatment works (POTW) and on-site treatment plant.

PMN 84-1112

Manufacturer. General Electric Company.

Chemical. (G) Aliphatic dicarboxylic acid polymer with alkane diol.

Use/Production. (S) Polymer intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 120 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 10 kg/batch burned. Disposal by local, state and federal regulations.

PMN 84–1113

Manufacturer. The Dow Chemical Company.

Chemical. (G) Acid form of sulfonated, alkylated diphenyl oxide.

Use/Production. (S) Site-limited intermediate to make sodium salt form of this surfactant. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: Dermal.

Environmental Release/Disposal. Release to air.

PMN 84–1114

Manufacturer. The Dow Chemical Company.

Chemical. (G) Sodium salt of sulfonated, alkylated diphenyl oxide.

Use/Production. (G) Surfactant. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/L; Irritation: Skin—Essentially no irritation: Eye—Slight; LC_{50} 48 hr (Daphnia magna): 47 mg/L; LC_{50} 96 hr—(Fathead minnow): 13 mg/L.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. No release to air.

PMN 84–1115

Manufacturer. Confidential

Chemical. (G) Phenolic modified rosin ester.

Use/Production. (G) Resinous substance having an open use. Prod. range: 900,000–1,500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 106 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. 0.05 to 60 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1116

Manufacturer. Emery Industries.

Chemical. (S) Adipic acid and phthalic anhydride polymers with ethylene glycol and neopentyl glycol terminated with 2-ethyl hexanol.

Use/Production. (S) Industrial plasticizer for polyvinyl chloride resin. Prod. range: 450,000–640,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 3–5 workers, up to 4 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. Negligible release to water and land. Disposal by POTW.

PMN 84–1117

Manufacturer. Emery Industries.

Chemical. (S) Adipic acid, azelaic acid, phthalic anhydride, polymers with ethylene gylcol neopentyl glycol and 2-ethyl hexanol.

Use/Production. (S) Industrial plasticizer for polyvinyl chloride resin. Prod. range: 459,000–640,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 3–5 workers, up to 4 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. Negligible release to water and land. Disposal by POTW.

PMN 84–1118

Manufacturer. S. C. Johnson and Son, Inc.

Chemical. (G) Carboxyl functional acrylic copolymer.

Use/Production. (G) Coating—open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Release to air.

PMN 84–1119

Manufacturer. Morflex Chemical Company, Inc.

Chemical. (S) 1,2,3-Propanetricarboxylic acid, 2-(acetoxy)-tri-n-hexyl ester.

Use/Production. (S) Polyvinly chloride plasticizer. Prod. range: Confidential.

Toxicity Data. Acute oral: Mice— > 48 g/kg, Rats— > 20 g/kg; Acute dermal: > 2 g/kg; Irritation: Skin—Not an irritant, Eye—Not an irritant; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1120

Manufacturer. Morflex Chemical Company, Inc.

Chemical. (S) 1,2,3-Propanetricarboxylic acid, 2-(butoxy)-tri-n-hexyl ester.

Use/Production. (S) Polyvinyl chloride plasticizer. Prod. range: Confidential.

Toxicity Data. Acute oral: Mice— > 48 g/kg, Rats— > 20 g/kg; Acute dermal: > 2 g/kg; Irritation: Skin—Not an irritant, Eye—Not an irritant; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1121

Manufacturer. Morflex Chemical Company, Inc.

Chemical. (S) 1,2,3-Propanetricarboxylic acid, 2-(acetoxy)-tri-n-(octyl/decyl) ester.

Use/Production. (S) Polyvinyl chloride plasticizer. Prod. range: Confidential.

Toxicity Data. Acute oral: Mice— > 48 g/kg, Rats— > 20 g/kg; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1122

Manufacturer. Confidential.

Chemical. (G) Silicone glycol.

Use/Production. (G) Textile finish. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: No evidence of genetic activity.

Exposure. Manufacture: Dermal, a total of 3 workers, up to 3 hrs/da.

Environmental Release/Disposal. 1 kg released to land. Disposal incineration.

PMN 84–1123

Importer. Confidential.

Chemical. (G) Substituted sulfonated naphthalene.

Use/Import. (S) Industrial direct dye for paper. Import range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Processing: dermal, a total of 1 worker/shift, up to ¼ hr/shift.

Environmental Release/Disposal. Minimal release. Disposal by on-site biological waste treatment plants.

PMN 84–1124

Manufacturer. Confidential.

Chemical. (G) Modified styrene—divinyl benzene polymer.

Use/Production. (G) For use with aqueous solutions in a contained use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 4 hrs/da, up to 70 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1125

Manufacturer. American Hoechst Corporation.

Chemical. (G) Methanone, alkyl-aryl.

Use/Prod. (S) Site-limited intermediate, captive use. Prod. range: 400–450 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 1.5 hr/da, up to 10 da/yr.

Environmental Release/Disposal. 9 to 12 kg released to water. Disposal by navigable waterway.

PMN 84–1126

Manufacturer. Confidential.
Chemical. (G) Methanone, alkyl—substituted phenyl.
Use/Prod. (G) Open-non dispersive. Prod. range: 1,300–1,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 1 hr/da, up to 25 da/yr.
Environmental Release/Disposal. 30 to 45 kg released to water. Disposal by navigable waterway.

PMN 84–1127

Importer. American Hoechst Corporation.
Chemical. (G) Sulfamic acid, substituted amine salt.
Use/Import. (G) Open-non dispersive. Import range: 4,500–7,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 5–10 workers, up to 10–15 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–1128

Manufacturer. Confidential.
Chemical. (G) Isoalkyleneoxy alkanol.
Use/Production. (G) Solvent/chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: > 2,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Essentially no irritation, Eye—Moderate; LC_{50} 48 hr (Daphnia magna): 6,800 mg/L; LC_{50} 96 hr (Fathead minnow): 6,700 mg/L.
Exposure. Manufacture and use: dermal, a total of 3 workers.
Environmental Release/Disposal. Release to air. Disposal by incineration.

PMN 84–1129

Manufacturer. Confidential.
Chemical. (S) Acetid acid, ester with C_8–C_{11} is alcohols, C_{10}—rich.
Use/Production. (S) General industrial solvent for such potential uses as pesticides, adhesives/sealants metal working fluids, textiles coating and inks. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5 g./kg; Acute dermal: > 3.16 g/kg; Irritation: Skin—Mild, Eye—Slight.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Release to air, water and land. Disposal by navigable waterway.

PMN 84–1130

Manufacturer. Confidential.
Chemical. (S) Acetic acid, ester with C_8C_{10} alcohols, C_8—rich
Use/Production. (S) General industrial solvent for such potential uses as pesticides, adhesives/sealants metal working fluids, textiles coating and inks. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 3.16 g/kg; Irritation: Skin—Mild, Eye—Slight.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Release to air, water and land. Disposal by navigable waterway.

PMN 84–1131

Manufacturer. Confidential.
Chemical. (S) Acetic acid, ester with C_{11}–C_{14} iso alcohols, C_{13}—rich.
Use/Production. (S) General industrial solvent for such potential uses as pesticides, adhesives/sealants metal working fluids, textiles coating and inks. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 3.16 g/kg; Irritation: Skin—Mild, Eye—Slight.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Release to air, water and land. Disposal by navigable waterway.

Dated: August 31, 1984.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 84-23711 Filed 9-6-84; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The promposed report form under review is listed below.

DATE: Comments must be received on or before October 22, 1984. If you anticipate commenting on a report form, but find that time to prepare will prevent you from submitting comments proptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Liaison Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:
EEOC Agency Liaison Officer: Margaret P. Ulmer, Administrative Management Services, Room 386, 2401 E. Street, NW., Washington, D.C. 20507; Telephone (202) 634–9726.

OMB Reviewer: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395–6880.

Type of Request: Extension (No change)
Title: Local Union Report EEO–3
Form Number: EEOC FORM 274
Frequency of Report: Annually
Type of Respondent: Business/other institutions
Standard Industrial Classification (SIC) Code: 863
Description of Affected Public: Referral Unions with 100 or more members
Responses: 3,000
Reporting Hours: 4,500
Federal Cost: 19,100
Applicable under Section 350(h) of Pub. L. 96–511: Not applicable
Number of Forms: 1
Abstract-Needs/Uses: Data are used to investigate charges of employment discrimination against local unions and apprenticeship programs. Data are shared with 38 State and 102 local Fair Employment Practice Commission agencies, and other Federal agencies.

For the Commission.

John Seal,

Management Director, Equal Employment Opportunity Commission.

[FR Doc. 84-23730 Filed 9-6-84; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for

comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010636.
Title: U.S. Atlantic-North Europe Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed agreement would establish a conference with authority to fix rates and practices covering the movement of cargo from U.S. Atlantic ports in the Eastport, Main/Key West, Florida range, and from Continental U.S. interior and coastal points via such ports (but not from motor, rail and ocean carrier facilities at points located within the ICC-defined commerical zones of U.S. Gulf ports for cargo moving in minibridge service from such facilities via U.S. Atlantic ports south of Cape Hatteras), to North European ports and points in Europe via such ports. By its own terms the proposed agreement will not be implemented until sixty days after it is allowed to become effective, at which time other conference agreements in this trade in which the parties currently participate will terminate.

Agreement No.: 202–010637.
Title: North Europe-U.S. Atlantic Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed agreement would establish a conference with authority to fix rates and practices covering movement of cargo from North European ports and points in Europe via such ports to U.S. Atlantic ports in the Eastport, Maine/Key West, Florida range, and to Continental U.S. interior and coastal points via such ports (but not to motor, rail and ocean carrier facilities at points located within the ICC-defined commerical zones of U.S. Gulf ports for cargo moving in minibridge service from such facilities via U.S. Atlantic ports south of Cape Hatteras). By its own terms the proposed agreement will not be implemented until sixty days after it is allowed to become effective, at which time other conference agreements in this trade in which the parties currently participate will terminate.

Dated: September 4, 1984.
By Order of the Federal Maritime Commission.
Francis C. Hurney,
Secretary.

[FR Doc. 84–23716 Filed 9–6–84; 8:45 am]
BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–000017–049.
Title: Far East Conference.
Parties:
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller—Maersk Line
Nippon Yusen Kaisha
United States Lines, Inc.
Yamashita—Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would broaden the scope of permissible independent action to include all conference rates or service items, except those in service contracts, regardless of whether the rate or service item is required to be published in a tariff pursuant to section 8(a) of the Shipping Act of 1984. The parties have requested a shortened review period.

Agreement No.: 221–002260–006, 221–002261–007, 221–002794–004, 221–003386–004, 221–003513–005.
Title: City of Milwaukee Marine Terminal Agreement.
Parties:
City of Milwaukee (City)
Meehan Seaway Service, Ltd. (Meehan)

Synopsis: The agreements provide for the termination of a portion of a lease agreement between the City and Meehan pertaining to an oil packaging facility located at 1900 S. Harbor Drive. All other sections of the agreement are to remain in full force and effect. The parties have requested a shortened review period.

Agreement No.: 202–005850–041.
Title: North Atlantic Westbound Freight Association.
Parties:
Atlantic Countainer Line (G.I.E.)
Compagnie Generale Maritime
Dart ML Limited
Hapag-Lloyd
Intercontinental Transport (ICT) B.V.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the North Europe-U.S. Atlantic Conference (Agreement No. 202–010637) becomes effective.

Agreement No.: 202–007100–028.
Title: North Atlantic United Kingdom Freight Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) becomes effective.

Agreement No.: 202–007670–024.
Title: North Atlantic Baltic Freight Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) becomes effective.

Agreement No.: 202–007770–024.
Title: North Atlantic French Atlantic Freight Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days

after the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) becomes effective.

Agreement No.: 202–008210–049.
Title: Continental North Atlantic Westbound Freight Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the North Europe-U.S. Atlantic Conference (Agreement No. 202–010637) becomes effective.

Agreement No.: 202–009214–027.
Title: North Atlantic Continental Freight Conference
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) becomes effective.

Agreement No.: 206–009978–017
Title: Cooperative Self-Policing Arrangement Associated North Atlantic Freight Conferences
Parties:
North Atlantic United Kingdom Freight Conference, FMC Agreement No. 7100
North Atlantic Baltic Freight Conference, FMC Agreement No. 7670
North Atlantic French Atlantic Freight Conference, FMC Agreement No. 7770
North Atlantic Continental Freight Conference, FMC Agreement No. 9214
North Atlantic Westbound Freight Association, FMC Agreement No. 5850
Continental North Atlantic Westbound Freight Conference, FMC Agreement No. 8210
Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference, FMC Agreement No. 9982

Synopsis: The proposed amendment would terminate the agreement 60 days after the first date when both the North Europe-U.S. Atlantic Conference (Agreement No. 202–010637) and the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) become effective.

Agreement No.: 202–009982–020
Title: Scandanavia Baltic/U.S. North Atlantic Westbound Freight Conference
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the North Europe-U.S. Atlantic Conference (Agreement No. 202–010637) becomes effective.

Agreement No.: 217–010118–007.
Title: Atlantic Steamship Emergency Chartering Agreement.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the first date when both the North Europe-U.S. Atlantic Conference (Agreement No. 202–010637) and the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) become effective.

Agreement No.: 202–010491–002.
Title: North Europe-U.S. South Atlantic Rate Agreement.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the North Europe-U.S. Atlantic Conference (Agreement No. 202–010637) becomes effective.

Agreement No.: 202–010492–002.
Title: South Atlantic-Europe Rate Agreement.
Parties:
Atlantic Container Line (G.I.E.)
Dart ML Limited
Hapag-Lloyd A.G.
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would terminate the agreement 60 days after the U.S. Atlantic-North Europe Conference (Agreement No. 202–010636) becomes effective.

Agreement No.: 221–010638.
Title: City of Milwaukee Marine Terminal Agreement.
Parties:
City of Milwaukee (City).
Cal-Western Packaging Corp. (Cal-Western).

Synopsis: The agreement provides for the leasing by the City to Cal-Western of a one and one-half acre parcel of land with warehouse area, office area and spur tracks at 1900 S. Harbor Drive, on the South Harbor Tract in the Port of Milwaukee, Wisconsin for the receipt, storage, preparation, processing, handling and shipping of edible oil products. The parties have requested a shortened review period.

Dated: September 4, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–23717 Filed 9–6–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 31, 1984.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under delegated OMB authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Desk Officer—Judith McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–69880).

Request for New Collection

1. Report title: Annual and Quarterly Reports of Repurchase Agreements on U.S. Government and Federal Agency Securities.
1. Report form No.: FR 2090a and FR 2090q

OMB Docket No.: 7100–0205
Frequency: Annually; Quarterly
Reporters: Depository institutions
Small businesses are affected
General description of report:
Respondent's obligation to reply is voluntary (12 U.S.C. 248(a) and

3105(b)); a pledge of confidentiality is promised (5 U.S.C. 552(b)(4)). These reports provide information on repurchase agreement transactions involving U.S. government and federal agency securities with certain specified holders. The information will be used by the Federal Reserve System in computing the RP component of the monetary aggregates.

2. Report title: Survey of Federal Funds Sold and Securities Purchased Under Agreement to Resell
Agency form No.: FR 3032
OMB Docket No.: 7100–2006
Frequency: One-time
Reporters: Commercial Banks
Small businesses are affected
General description of report:
Respondent's obligation to reply is voluntary (12 U.S.C. 225(a) and 263(c)); a pledge of confidentiality is not promised.

This survey provides a breakdown of federal funds sold and resale agreements into three components. These data will be used by the Federal Reserve System to compute customer breakdowns used in the estimation of bank credit. These data would also be used in constructing an aggregate bank balance sheet. In addition, data from this survey would aid in the reconciliation of bank credit and deposits in the broader money stock measures.

Request for Extension With Revisions

1. Report title: Monthly Survey of Eligible Bankers Acceptances
Agency form No.: FR 1006
OMB Docket No.: 7100–0055
Frequency: Monthly
Reporters: U.S.-chartered commercial banks, U.S. branches and agencies of foreign banks, Edge and Agreement Corporations, and Bank Holding Companies.
Small businesses are not affected
General description of report:
Respondent's obligation to reply is voluntary (12 U.S.C. 248(a), 625, and 3105(b)); a pledge of confidentiality is promised (5 U.S.C. 552 (b)(4) and (b)(8)).

This survey, which is submitted by commercial banks in the U.S., provides the only source of information on eligible dollar bankers acceptances that are legally payable in the United States. The data are used in constructing measures of monetary and credit aggregates. Two memoranda items have been added to collect data: (1) On participations in acceptances; and (2) on the amount of acceptances reported that are refinanced by the creation of an acceptance at another bank in the U.S.

2. Report title: Notice of Proposed Stock Redemption
Agency form No.: FR 4008
OMB Docket No.: 7100–0131
Frequency: On Occasion
Reporters: Bank holding companies (BHC)
Small businesses are not affected
General description of report:
Respondent's obligation to reply is mandatory (12 CFR 225.4); a pledge of confidentiality is not promised.

The filing of the notice is required of a BHC proposing to purchase or redeem its shares when the gross consideration to be paid for the purchase or redemption is equal to 10 percent or more of the company's consolidated net worth over any 12 month period of time.

3. Report title: Mortgage Loan Disclosure Statement
Agency form No.: HMDA–1
OMB Docket No.: 7100–0090
Frequency: Annual
Reporters: Depository institutions
Small businesses are not affected
General description of report:
Respondent's obligation to reply is mandatory (12 U.S.C. 2801–2811); a pledge of confidentiality is not promised.

State member banks subject to the Act annually disclose by census tract or county originated and purchased residential mortgage loans. Disclosures publicly available at the bank for 5 years and at the MSA central data repository. Public officials, examiners, and the public use the disclosure to determine lending patterns in home financing and to detect discrimination among other things.

4. Report title: Membership Application Forms
Agency form No.: FR 2083–2083E
OMB Docket No.: 7100–0046
Frequency: On occasion
Reporters: New and existing banks who wish to become members of the Federal Reserve System
Small businesses are not affected
General description of report:
Respondent's obligation to reply is mandatory (12 U.S.C. 321–328); a pledge of confidentiality is not promised.

The application provides managerial, financial, and structural data necessary for the Federal Reserve Board to evaluate a new or existing bank's application for admission to the Federal Reserve System pursuant to criteria established by statute and regulation (Regulation H).

5. Report title: Report of Other Demand Deposits
Agency form No.: FR 2019
OMB Docket No.: 7100–0059
Frequency: Weekly
Reporters: Selected foreign-related institutions in New York
Small businesses are not affected
General description of report:
Respondent's obligation to reply is voluntary; a pledge of confidentiality is not promised (5 U.S.C. 552(b)(4)).

Report collects data on selected demand deposits outstanding from selected foreign-related institutions for use in constructing the monetary aggregates. Also provides data for early estimates of the aggregates.

Board of Governors of the Federal Reserve System, August 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–23683 Filed 9–6–84; 8:45 am]

BILLING CODE 6210–01–M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on August 21, 1984, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $4 billion to $6 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately for the period ending with the close of business on October 2, 1984.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697.

By order of the Federal Open Market Committee, August 31, 1984.

Stephen H. Axilrod,

Secretary.

[FR Doc. 84–23678 Filed 9–6–84; 8:45 am]

BILLING CODE 6210–01–M

Cape Coral Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 28, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Cape Coral Financial Corporation,* Cape Coral, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Community National Bank, Cape Coral, Florida.

2. *Public Financial Corporation,* St. Cloud, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Public Bank of St. Cloud, St. Cloud, Florida.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Investark Bankshares, Inc.,* Stuttgart, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank in Stuttgart, Stuttgart, Arkansas.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Waldorf Bancshares,* Waldorf, Minnesota; to become a bank holding company by acquiring 82 percent of the voting shares of Waldorf State Bank, Waldorf, Minnesota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Harvard Bancshares, Inc.,* Tulsa, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of Harvard Bank, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, August 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-23679 Filed 9-6-84; 8:45 am]

BILLING CODE 6210-01-M

First Virginia Banks, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 25, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.,* Falls Church, Virginia; to engage *de novo* through its subsidiary, First Virginia Software, Inc., Falls Church, Virginia, in providing to others data processing and data transmission services and facilities (including data processing and data transmission software, hardware, documentation or operating personnel), as well as data bases, or access to such services, facilities, or data bases. Comments on this application must be received not later than September 27, 1984.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bank of Montana System,* Great Falls, Montana; to engage *de novo* through its subsidiary, BMS Mortgage Corporation, Great Falls, Montana, in the activities of a mortagage company. These activities would be conducted in the State of Montana. Comments on this application must be received not later than September 25, 1984.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Wells Fargo & Company,* San Francisco, California; to engage *de novo* through its subsidiary, Central Western Insurance Company, Phoenix, Arizona, to underwrite, as reinsurer, single premium reducing term credit life insurance and single premium reducing term joint credit life insurance through an existing subsidary, Central Western Insurance Company.

Board of Governors of the Federal Reserve System, August 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-23680 Filed 9-6-84; 8:45 am]

BILLING CODE 6210-01-M

State First Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) of the § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outwegth possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 1984.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *State First Financial Corporation,* Texarkana, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of The State First National Bank of Texarkana, Texarkana, Arkansas and 89.9 percent of the voting shares of First National Bank in Ashdown, Ashdown, Arkansas, to be acquired indirectly through the acquisition of the Bank's parent, Commercial Investment Company, Texarkana, Arkansas.

State First Financial Corporation, Texarkana, Arkansas has also applied to acquire Commercial Investment Company, Texarkana, Arkansas and thereby engage in making and servicing loans, primarily to the officers and directors of the organization; and leasing personal or real property.

Board of Governors of the Federal Reserve System, August 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-23681 Filed 9-6-84; 8:45 am]

BILLING CODE 6210-01-M

First Bank System, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 13, 1984.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Utah FBS Corporation,* Salt Lake City, Utah; to acquire 100 percent of the voting shares of Golden Spike State Bank, Tremonton, Utah.

Additionally, Montana First Bancorporation, Helena, Montana, has applied to become a bank holding company by acquiring 99.7 percent of the voting shares of First National Bank of Great Falls, Great Falls, Montana, an existing subsidiary of First Bank System, Inc., Minneapolis, Minnesota, and 100 percent of the voting shares of Utah FBS Corporation, Salt Lake City, Utah, thereby indirectly acquiring Golden Spike State Bank, Tremonton, Utah. First Bank System, Inc., Minneapolis, Minnesota, has applied to acquire Montana First Bancorporation, Helena, Montana, thereby indirectly acquiring First Golden Spike State Bank, Tremonton, Utah, a newly formed State bank that will purchase certain assets and assume all deposits and liabilities of Golden Spike State Bank, Tremonton, Utah.

Board of Governors of the Federal Reserve System, September 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-23915 Filed 9-6-84; 12:23 pm]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 31.

Public Health Service

Health Resources and Services Administration

Subject: Application—Scholarship Program for First Year Students of Exceptional Financial Need (0915-0020)—EXTENSION/NO CHANGE.

Respondents: Educational institutions.

Subject: Health Systems Agency Application Guidelines for Designation and Related Reporting Requirements (0915-0085)—EXTENSION/NO CHANGE.

Respondents: State and local governments.

Subject: Pub. L. 93-638 Application for Contract Law Waiver (0915-0042)—EXTENSION/NO CHANGE.

Respondents: American Indian and Alaskan Native tribal organizations.

Subject: Pub. L. 93-638 Initial Contract Application (0915-0041)—EXTENSION/NO CHANGE.

Respondents: American Indian and Alaskan Native tribal organizations.

Subject: Pub. L. 93-638 Tribal Clearances of Initial and Renewal Contracts (0915-0040)—EXTENSION/NO CHANGE.

Respondents: American Indian and Alaskan Native tribal organizations.

OMB Desk Officer: Fay S. Iudicello.

National Institutes of Health

Subject: A Feasibility Study of Cancer Risk Among Persons with Scolosis—NEW COLLECTION.

Respondents: Individuals.

Subject: Evaluation of Selected Oral Health Education and Promotion Activities of National Institutes of Dental Research—NEW COLLECTION.

Respondents: Faculty of educational institutions.

OMB Desk Officer: Fay S. Iudicello.

Centers for Disease Control

Subject: Neonatal Herpes Simplex Surveillance (0920–0139)—EXTENSION/NO CHANGE.

Respondents: Individuals—state and local governments.

OMB Desk Officer: Fay S. Iudicello.

Food and Drug Administration

Subject: Good Manufacturing Practices for Blood and Blood Components (0910–0116)—EXTENSION/NO CHANGE.

Respondents: Blood banks, plasmapheresis centers, facilities providing transfusion services.

Subject: Drug Experience Report (0910–0002)—REINSTATEMENT.

Respondents: Drug Manufacturers.

OMB Desk Officer: Bruce Artim.

Office of the Assistant Secretary for Health

Subject: Status Assessment of Inactive Reserve Officer Availability (0937–0034)—REVISION.

Respondents: PHS Inactive Reserve Officers.

OMB Desk Officer: Fay S. Iudicello.

Social Security Administration

Subject: Application for Mother's or Father's Insurance Benefits (0960–0003)—REVISION.

Respondents: Applicants for Mother's or Father's Insurance Benefits.

Subject: Statement of Agricultural Employer (0960–0036)—EXTENSION/NO CHANGE.

Respondents: Certain agricultural employers.

Subject: Black Lung Student's Statement Regarding Resumption of School Attendance (0960–0314)—REVISION.

Respondents: Students who are children of deceased coal miners.

Subject: Questionnaire about Employment or Self Employment Outside the United States (0960–0050)—EXTENSION/NO CHANGE.

Respondents: Certain Beneficiaries Residing Outside the United States.

OMB Desk Officer: Robert J. Fishman.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: August 28, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84–23581 Filed 9–6–84; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services; Chapter AMM (Office of Management Analysis and Systems) last amended at 48 FR 3657 (January 26, 1983), Chapter AMN (Office of Finance) last amended at 44 FR 56989 (October 3, 1979), Chapter AMS last amended at 49 FR 13751 (April 6, 1984) and Chapter AHP last amended at 49 FR 13751 (April 6, 1984) are amended. The following organizational changes are made to reflect a streamlining of the Office of the Secretary, consolidating similar functions, reassigning functions more efficiently performed by the Operating Divisions of the Department, and eliminating functions no longer required. The changes reduce organizational overlap and duplication, creating a more efficient organization.

The changes are as follows:

1. Amend Chapter AM as follows:

a. Amend subsection AMM.00 B by deleting the word "and" after sentence (10), substituting a semicolon after sentence (11), and adding the following after (11): and, (12) providing as required administrative support to Special Project Officers appointed by and reporting to the Assistant Secretary for Management and Budget.

b. Amend section AMM.10 Organization by inserting on a new line below the Office of Public and State Data Systems, Project Management Staff.

c. Substitute the following at subsection AMM.20 B:

B. Office of Computer and Information Systems

The Office of Computer and Information Systems is responsible for:

1. Developing and overseeing the policies and procedures by which the Department plans, acquires, and manages its information systems;

2. Managing HHS computer information system activities in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511);

3. Managing the provision of automated information system services to components within the Office of the Secretary; and,

4. Representing the Department in interactions with the Office of Management and Budget, the General Services Administration, and other external entities regarding the management of HHS information systems.

(a) *Division of Management Information Systems Planning and Evaluation* is responsible for:

(1) Establishing information systems policies which govern the development and operation of information systems throughout the Department;

(2) Developing and establishing a Departmental planning process for relating information system requirements to HHS programmatic and administrative needs;

(3) Establishing policies covering the use of information processing standards throughout the Department;

(4) Eatablishing and maintaining the Department's inventory of information systems resources;

(5) Providing policy guidance, management planning, technical assistance, evaluation, and oversight for the implementation of systems security processes and procedures for automated information systems and computer facilities throughout the Department;

(6) Providing technical advice, systems analysis, and programming and operational support for designated Departmental automated systems.

(b) *Division of Automatic Data Processing (ADP) and Telecommunications Resources* is responsible for:

(1) Establishing and overseeing a Departmental voice and data telecommunications management program;

(2) Establishing procedures for ensuring the proper management and cost effectiveness of existing ADP and telecommunications equipment within HHS component organizations;

(3) Evaluating the management and cost effectiveness of existing ADP and telecommunications equipment within HHS component organizations; and,

(4) Providing technical and management evaluations of the Department's long-range ADP and telecommunications financial plans.

(c) *Division of OS Information Resources Systems Management* is responsible for:

(1) Establishing policies and procedures governing the acquisition and efficient utilization of ADP and telecommunications resources for the Office of the Secretary's headquarter and regional components, including appropriate oversight and evaluation;

(2) Serving as a coordinating and oversight organization which assures the availability of computer time and related data processing and software services to the Office of the Secretary;

(3) Managing the development of the automated information systems serving the internal needs of Office of the Secretary components; and,

(4) Providing technical assistance for the electronic mail system for the Office of the Secretary.

d. Amend subsection AMM.20 C, paragraph (a) by deleting item (4) in its entirety and renumbering items (5), (6), and (7) as items (4), (5), and (6).

e. Amend subsection AMM.20 F by adding the following paragraph 10:

(10) Managing the Department's printing and copying activities by:

(a) Providing policy guidance to and oversight over the printing and copying management programs carried out by the Department's Operating Divisions; and

(b) Providing Departmental liaison with the Congressional Joint Committee on Printing, the Government Printing Office, and other governmental entities concerned with printing and copying management matters.

f. Add new subsection AMM.20 G to read:

G. Project Management Staff

The Project Management Staff is responsibile for implementing Departmentwide management improvement initiatives designated for special managerial attention, and for providing day-to-day leadership to implement governmentwide management improvement initiatives when this Department is requested by Senior Executive Branch officials to serve as the head of interagency task forces, work groups, etc. which are devoted to implementing major initiatives. Individuals on the staff function as project managers with responsibility for: (1) preparing specific implementation strategies and plans to guide the implementation process; (2) directing the day-to-day activities required to implement these strategies and plans; (3) identifying, mediating and resolving implementation-related policy issues, and (4) providing periodic progress reports to the Assistant Secretary for Management and Budget and other senior government officials charged with overseeing major management initiatives.

Individual project managers form and direct implementation teams. These teams are composed of specialists in such areas as grants and contracts, personnel, budgeting, management information systems, and evaluation. These specialists assist the project managers on technical matters related to implementation of individual projects.

Individual project managers are responsible for all the day-to-day aspects of major management initiatives which involve several Departmental components, or in the case of interagency initiatives, involve several Departments or independent agencies. As such, individual project managers interact with senior Departmental officials and senior officials from other Departments and agencies, as well as the Office of Management and Budget and other Executive Branch oversight organizations.

2. Amend Chapter AMN by deleting the Chapter in its entirety and substituting the following:

AMN.00 *Mission.* The Office of Finance provides guidance on budget execution, accounting systems, financing, financial and cost reporting, cash management, debt and credit management, and travel management. Serves as advisor to the Assistant Secretary for Management and Budget in these areas.

AMN.10 *Organization.* The Office of Finance is headed by the Deputy Assistant Secretary, Finance who reports to the Assistant Secretary for Management and Budget. Its organization includes:

Immediate Office.
Division of Accounting Operations (AMN1).
Division of Accounting Systems and Procedures (AMN2).
Division of Financial Policy and Operations (AMN3).
Division of Financial Systems Applications (AMN4).

AMN.20 *Functions.* The Office of Finance:

A. Develops and executes, in coordination with the Office of Budget, spending policies and procedures for continuing resolutions and appropriations. Makes specific studies and appraisals of financial aspects of program operations in areas identified by the Secretary or the Assistant Secretary for Management and Budget.

B. Establishes and maintains a Departmental system of financial operating plans.

C. Develops and manages a Departmentwide system for estimating and controlling outlays. Assists the Office of Budget in presentation of budget outlay estimates to the Office of Management and Budget and the Congress.

D. Recommends and issues Departmentwide policies and procedures relating to fiscal, cost, travel, and accounting activities.

E. Recommends and executes policies and procedures relating to the expenditure and collection of funds administered by the Department.

F. Establishes uniform standards, policies, classifications, and terminologies to be used throughout the Department in budget execution and financial and cost reporting.

G. Develops and maintains financial management data collection and reporting systems on programs, activities, and operations of the Department.

H. Develops and executes policies and procedures relating to (1) implementation and management of internal controls, and (2) evaluation of accounting and related systems for conformance with the Comptroller General's principles and standards.

I. Develops and executes policies and procedures relating to cash management and financing of recipient organizations that receive program funding from HHS.

J. Develops, coordinates, and issues ADP policy related to the development, implementation, and maintenance of Departmentwide financial systems.

K. In its areas of responsibility, represents the Department in its relationships with the Office of Management and Budget, the Treasury Department, the General Accounting Office, the General Services Administration, and other Federal agencies. Oversees Departmental implementation of central agency directives relating to budget execution, fiscal policy, accounting internal controls, debt and credit management, cash management, and travel management.

L. Operates and maintains Departmentwide financial systems.

M. Provides fiscal, accounting, and financial reporting services for the Office of the Secretary, the Office of Human Development Services, and other Departmental components as determined by the Assistant Secretary for Management and Budget.

1. *The Division of Accounting Operations:*

a. Develops and maintains the accounting manual for the Office of the Secretary in conformance with the Departmental Accounting Manual.

b. Maintains official records and documents for the Office of the Secretary, the Office of Human Development Services, and other Departmental components as determined by the Assistant Secretary for Management and Budget.

c. In cooperation with the Division of Financial Systems Applications, maintains computerized appropriation and obligation records and accounts for the Office of the Secretary, the Office of Human Development Services, and other Departmental components as determined by the Assistant Secretary for Management and Budget.

d. Establishes and maintains financial controls over cash, accounts receivable, property, and other assets.

e. In cooperation with the Division of Financial Systems Applications, develops reporting systems and prepares financial and cost reports covering activities of the Office of the Secretary, the Office of Human Development Services, and other Departmental components as determined by the Assistant Secretary for Management and Budget.

f. Examines and pays vendors invoices, transportation, and other bills.

g. Examines and pays travel vouchers for employees.

h. Provides cashier services.

i. Provides billing services for the Department Working Capital Fund and reimbursable activities.

2. *The Division of Accounting Systems and Procedures:*

a. Develops fiscal and accounting policy and procedures for Departmentwide application; promulgates these procedures as well as other Governmentwide financial procedures through the Department Staff Manual System.

b. Conducts financial management studies and surveys and assists Staff Divisions and Operating Divisions in the design, installation, and improvement of their accounting systems and operations.

c. Develops and executes policies and procedures relating to implementation and management of internal controls.

d. Develops and issues policies and procedures relating to evaluation of accounting and related systems for conformance with the Comptroller General's principles and standards.

e. Provides advice and assistance to Staff Divisions and Operating Divisions on accounting and related fiscal matters.

f. Serves as principal staff adviser to the Office of Finance on accounting and related fiscal matters.

g.Reviews and drafts Departmental reports on Congressional bills affecting financial management.

h. In cooperation with the Division of Financial Systems Applications, operates and maintains the Departmental Payment Management System. Assures timely payments to grantees and contractors and prescribes requirements for grantee and contractor reporting of expenditures and accountability of Federal cash received.

i. Provides technical assistance for development of financial management information systems and other central systems.

j. Maintains liaison with the Office of Management and Budget, the Treasury Department, the General Accounting Office, and other agencies on matters involving accounting policy and procedures, internal controls, and grantee and contractor expenditure reporting and accountability of Federal cash received.

3. *The Division of Financial Policy and Operations:*

a. Establishes and maintains a Departmental budget execution system based on uniform standards, classification, and procedures so as to apply resources consistent with Department policy and budget. Resolves questions regarding financial issues and proper authority and application of funds.

b. Establishes and maintains a Departmentwide system of outlay estimates in support of formulation and execution of the budget, including a tracking process for identifying variances and preparing reports.

c. In cooperation with the Office of Budget and other staff offices, recommends policy for activities and services authorized to continue in the absence of appropriations and for continuing Departmental operations during periods of continuing resolutions.

d. Reviews agency Treasury warrant requests and apportionment requests and develops recommendations in cooperation with the Office of Budget for approval before submission to the Treasury Department and the Office of Management and Budget.

e. Maintains the Catalog of Federal Domestic Assistance and develops State tables of projected obligations for selected programs.

f. Recommends policy and maintains a system for tracking and improving cash and credit management and debt collection throughout the Department.

g. Develops financial policy and maintains a system of fiscal reporting to meet requirements of the General Accounting Office, Office of Management and Budget, the Treasury Department, and the General Services Administration that also includes (1) development and maintenance of the reports aspects of the Departmental Accounting Manual, and (2) preparation of periodic reports.

h. Develops and maintains travel and fiscal voucher examination policies for Departmentwide application and publishes policies and procedures through the Department Staff Manual System.

i. In cooperation with the Division of Financial Systems Applications, develops and maintains a system for tracking and reporting awards and other obligations to meet the needs of the Financial Assistance Awards Data System reports and for preparing other geographical-based domestic assistance reports.

j. Develops policies and procedures and, in cooperation with the Division of Financial System Applications operates the Central Registry System used throughout the Department in other data systems as a source of recipient identity, address, and related information.

k. In cooperation with the Division of Financial Systems Applications, operates and maintains the automated Regional Accounting System and insures proper exchange of data with other automated systems; provides technical assistance to regional personnel for operating the system.

l. Performs studies or analyses in any of these or related subjects both singly or with outside organizations. Maintains continuous contact when necessary with the General Accounting Office, the Office of Management and Budget, the Treasury Department, the General Services Administration, or other agencies.

4. *The Division of Financial Systems Applications:*

a. Intercepts financial management policy, requirements, and specifications for user organizations; designs, develops, implements, and maintains all Office of Finance systems applications including, for example, the Departmental accounting system, the Departmental Payment Management System, and related sub-systems, software and procedures for Departmentwide use and operation on HHS or equivalent computers.

b. Assures that applications are properly integrated where feasible to improve timeliness and accuracy of financial information and promote efficient and effective use of resources.

c. Develops and recommends the policy for managing the design, development, modification, acquisition of resources, and maintenance of Office of Finance computer-based systems.

d. Develops and maintains systems specifications and software, and acquires hardware to meet Departmental financial management reporting requirements.

e. Performs all data base management functions for the Office of Finance, including Data Base Administration.

f. Assures the physical and data security of all Office of Finance systems applications and conducts risk analyses as necessary.

g. Serves as the Office of Finance's technical expert and adviser to the Operating Divisions, the Staff Divisions, and the Regions on the computer aspects (hardware, data base systems, software, telecommunications) of financial management systems.

h. Develops, recommends, and maintains immediate, intermediate, and long-range ADP plans for the development and operation of financial management systems; assures that the planning identifies the Department's ADP needs for support of financial management in the Department.

3. Delete in their entirety Chapters AMN1, AMN2, AMN3, AMN4, AMN5 and AMN6.

4. Amend Chapter AMS as follows:

a. Delete section AMS.10 Organization in its entirety and substitute the following:

AMS.10 Organization. The Office of Facilities and Management Services, under a Director who reports to the Assistant Secretary for Management and Budget, consists of the following components:

Office of the Director
Office of Special Programs Coordination
Division of Contract Operations
Washington Facilities Division
Division of Administrative Services

b. Amend section AMS.20 Functions as follows:

1. Delete subsection B in its entirety and substitute the following:

B. Office of Special Programs Coordination

Acts as the Department's focal point with other Federal agencies and HHS Operating Divisions on policy and regulatory issues involving Real Property, Space Management, Occupational Safety and health, and Emergency Preparedness activities.

1. Coordinates the Department's real property program through the promulgation of essential policies and administrative procedures. Recommends changes in procedures, budgeting, acquisition, and utilization policies for all real property owned or leased by HHS.

2. Establishes and monitors guidelines for the utilization of GSA assigned space and facilities owned or leased by HHS. Prepares and monitors guidelines for the space reduction program effort in HHS on behalf of the Secretary.

3. Establishes and maintains standards and guidelines for transfers of real property as required in the Federal Property Assistance Program. Maintains necessary records to discharge the HHS responsibilities. Coordinates as necessary with the General Services Administration's Property Review Board and other Federal agencies in effecting property transfers and in monitoring each transfer through the period of restrictions outlined in the conveyances.

4. Develops policies and procedures related to the HHS Safety and Occupational Health Program. Provides technical guidance to the components of HHS. Coordinates the gathering of data necessary for mandated reports and prepares the reports on behalf of the Secretary.

5. Establishes information and reporting standards for these programs. Collects, assembles, coordinates, and analyzes required information for mandated reporting to Congress, the Office of Management and Budget, the General Services Administration, and other Federal agencies.

6. Oversees the development of departmentwide and governmentwide contingency plans and programs for the Federal health and human services response to the full range of potential natural disasters and emergencies including nuclear attack. Such plans specify responsibilities and procedures for the Department of Health and Human Services, the Department of Defense, the Veterans Administration, the American Red Cross, and related health and human services organizations to provide assistance to the States when called upon under the overall coordination of the Federal Emergency Management Agency.

7. Keeps the Secretary and senior staff of the Department informed of all major governmentwide developments in readiness planning and establishes a program for developing and maintaining HHS readiness capability. Oversees development and maintenance of the Department's emergency planning and operations.

8. Oversees the review and updating of classified interagency plans maintained by the Federal Emergency Management Agency with respect to the health and human services portions of the nation's response plans for a nuclear attack. Coordinates with Staff Divisions, Operating Divisions, the Regions and with other Federal agencies as required to update and upgrade the HHS input to these plans.

9. Provides leadership to the Regions in reviewing and assessing the health and human services aspcts of State emergency plans. Assures that the HHS role in assisting the States in disasters is clear; that adequate plans are in place to respond when called upon; and, that HHS officials are informed of the plans and are prepared to implement them.

10. Serve as the focal point and principal contact in the Department for the While House Emergency Mobilization Preparedness Board and related working groups.

11. Oversees the design and conduct of inter-agency readiness exercises to test HHS plans at national and regional levels. Such exercises are designed so that plans are evaluated, problems identified, and corrective action taken.

2. Change AMS.20 subsection C as follows: delete "and Grant" from the title Division of Contract and Grant Operations; change the phrase "and carries out the centralized contracting, purchasing and grant program for" to read: "and carries out the centralized contracting and purchasing program for" in the first sentence of subparagraph C.

3. Delete AMS.20 subsection D. Division of Administrative Services, and substitute the following:

D. Division of Administrative Services

Provides centralized common and general administrative services and staff support to the Office of the Secretary and Departmental Operating Divisions at Headquarters. These services include Postal

Services, Printing Procurement and Reprographics, Materiel Operations, Staff Audio and Visual Presentation Support, and the HHS Library. Serves as the focal point for guidance and assistance for the HHS regional administrative services activities.

4. Delete AMS.20 subsection F. Division of Emergency Coordination in its entirety.

5. Amend Section AHP.20 Functions in Chapter AHP as follows:

a. Amend subsection E by deleting the last sentence which reads Establishes and manages field staff units supporting these systems.

b. Amend subsection E by deleting item (7) in its entirety and renumbering item (8) as item (7).

Dated: August 31, 1984.

John J. O'Shaughnessy,

Assistant Secretary for Management and Budget.

[FR Doc. 84-23745 Filed 9-6-84; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 84M-0275]

Coburn Optical Industries, Inc.; Premarket Approval of Meditec Model OPL-3 Nd:YAG Ophthalmic Laser

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Meditec Model OPL–3 Nd:YAG [neodymium:yttrium-aluminum-garnet] Ophthalmic Laser sponsored by Coburn Optical Industries, Inc., Clearwater, FL. After reviewing the recommendation of the Ophthalmic Devices Panel (formerly the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel), FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 9, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–443–7445.

SUPPLEMENTARY INFORMATION: On October 4, 1983, Coburn Optical Industries, Inc., Clearwater, FL 33516, submitted to FDA an application for premarket approval of the Meditec Model OPL–3 Nd:YAG Ophthalmic Laser. The Meditec Model OPL–3 Nd:YAG Ophthalmic Laser, is a neodymium:yttrium-aluminum-garnet ophthalmic laser with a helium-neon (He-Ne) aiming beam that is indicated for discussion of the posterior capsule of the eye (posterior capsulotomy). The application was reviewed on November 17, 1983, by the then Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA Advisory committee, which recommended approval of the application. (On April 14, 1984, the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel was terminated. Concurrently, FDA established the Ophthalmic Devices Panel (see 49 FR 17446; April 24, 1984).) On July 26, 1984, FDA approved the application by letter to the sponsor from the Director of the Office of Device Evaluation of the Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity For Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decison to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 9, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 31, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–23656 Filed 9–6–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83V–0399]

Spectra-Physics, Inc., Availability of Approved Variance for Hand Held UPC Laser Scanners

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a variance from the performance standard for laser products has been approved by FDA's Center for Devices and Radiological Health (CDRH) for various models of hand held universal product code (UPC) laser scanners manufactured by Spectra-Physics. The laser scanners are used to read UPC bar code labels.

DATES: The variance became effective June 25, 1984, and ends June 25, 1989.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Summers, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–433–4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted Spectra-Physics, Inc., 959 Terry St., Eugene, OR 97402, a variance from § 1040.10(f)(6) (21 CFR 1040.10(f)(6)) of the performance standard for laser products for their Class II hand held UPC laser scanners.

The specific requirements of the standard for which a variance has been granted pertain to the provisions of § 1040.10(f)(6) that otherwise would require the laser scanners to be equipped with beam attenuators to reduce the laser radiation output of the lasers to below Class I limits. All other provisions of the performance standard remain applicable to the product.

CDRH has determined that: (a) The requirement of § 1040(f)(6) is not appropriate for the product; and (b) suitable means of radiation safety and protection are provided by the existing equipment design, by the requirement that the laser system be turned on only by using a normally off momentary switch and by the requirement that the product be of either Class I or Class II. Therefore, on June 25, 1984, FDA approved the requested variance by

letter to the manufacturer from the Deputy Director of CDRH.

So that the product may show evidence of the variance approved for the manufacturer, the laser scanners shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the docket number appearing in the heading of this notice, and the effective date of the variance.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 31, 1984

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-23657 Filed 9-6-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators—Oral Nitroglycerin; Drug Efficacy Study Implementation; Revocation of Exemption; Announcement of Marketing Conditions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the temporary exemption for single-entity coronary vasodilator drug products containing controlled-release nitroglycerin because the drug has been shown to be effective for the prevention of angina pectoris. Under the exemption, the drug products have been allowed to remain on the market for continued study beyond the time limit scheduled for implementation of the Drug Efficacy Study. This notice also announces the marketing and labeling conditions for the products.

DATES: The revocation of exemption is effective September 7, 1984; bioavailability supplements to approved or conditionally approved new drug applications are due on or before March 6, 1985; other supplements are due on or before November 6, 1984.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 77N-0240 (DESI 1786), directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except requests for opinion of applicability are to be sent to the address listed below.

Supplements to full new drug applications (identify with NDA number): Division of Cardio-Renal Drug Products (HFN-110), Rm. 16B-45, Center for Drugs and Biologics.

Supplements to the conditionally approved abbreviated new drug applications (identify with ANDA number): Division of Generic Drugs (HFN-230), Rm. 16-70, Center for Drugs and Biologics.

Original abbreviated new drug applications (identify with ANDA number): Division of Generic Drugs (HFN-230), Rm. 16-70, Center for Drugs and Biologics.

Requests for information on conducting bioavailability/bioequivalence tests: Division of Biopharmaceutics (HFN-220), Center for Drugs and Biologics.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), Rm. 216, Center for Drugs and Biologics, 5640 Nicholson Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 1786) published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA announced its evaluation of reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, on certain coronary vasodilator drugs. FDA classified controlled-release tablets of nitroglycerin as possibly effective for indications relating to the management, prophylaxis, or treatment of anginal attacks.

Notices published in the **Federal Register** of August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), amended earlier notices (37 FR 26623, December 14, 1972; and 38 FR 18477, July 11, 1973) by temporarily exempting nitroglycerin in controlled-release forms from the time limits established for completing certain phases of the Drug Efficacy Study Implementation (DESI) program. The temporary exemption also applied to nitroglycerin in topical ointment and conventional oral forms. The amending notices established conditions for marketing these products, including requirements for both bioavailability and clinical studies. The availability of guides and methods for conducting bioavailability and clinical effectiveness studies and the specific conditions under which the products could be marketed were published in the August 26, 1977 notice. Conditions were established for marketing of identical, similar, or related products (21 CFR 310.6) whether or not they had been marketed or whether or not they were subjects of approved new drug applications (NDA's). An abbreviated NDA (ANDA) was required for marketing of products not the subject of an NDA. The conditions provided for such products to be conditionally approved, pending the results of ongoing studies.

In the September 15, 1978 notice, FDA announced a change in the previously published conditions for testing and marketing single-entity coronary vasodilators. The change eliminated the requirement that each manufacturer conduct or participate in effectiveness studies and allowed a drug to remain on or enter the market even though its manufacturer was not conducting clinical studies of effectiveness, provided that some other manufacturer was conducting such studies on a product containing the same chemical entity in a similar dosage form. The notice also extended the dates for completing ongoing studies.

In response to the exempting notices, two firms submitted data and information to support effectiveness of controlled-release nitroglycerin.

The agency has completed its review of the data submitted for oral controlled-release nitroglycerin and found that the data provide substantial evidence of effectiveness. This notice announces that conclusion and the conditions under which the products may be marketed.

Accordingly, the temporary exemption as it pertains to oral controlled-release nitroglycerin is hereby revoked.

Certain other nitroglycerin products remain exempt under Category I and will be the subjects of future **Federal Register** notices.

Efficacy Review

Marion Laboratories, Inc., and Wharton Laboratories, Inc., submitted data to support the effectiveness of controlled-release nitroglycerin capsules and tablets for their indications relating to the prophylaxis, treatment, and management of angina pectoris. The data submitted were evaluated and determined to support effectiveness for prevention of angina pectoris. The data also suggest that tolerance develops with sustained use of nitrates but do not define the extent to which such tolerance may occur. The controlled-release form of nitroglycerin reviewed

here is not recommended for aborting an acute attack of angina pectoris because of the length of time required for onset of effect of a swallowed formulation. The following studies provide substantial evidence that controlled-release nitroglycerin is effective for the prevention of angina pectoris.

1. Steele, P.P., "The Effect of Sustained Release Nitroglycerin Capsules vs. Placebo Capsules on the Exercise Tolerance of Patients with Angina Pectoris," Marion Laboratories, Inc., 1984.

2. Winsor, T., "Effect of Nitroglycerin on Exercise Performance in Patients with Angina Pectoris: A Double-Blind Cross-Over Study Using Multistage Treadmill Exercise Tests," *American Heart Journal*, 90:611, 1975.

List of NDA's and ANDA's

The following NDA's and ANDA's previously approved or conditionally approved on the basis of safety, but not effectiveness, are subject to the finding and conditions stated in this notice:

1. NDA 9–599; Nitroglyn Sustained Action Tablets containing 2.6 milligrams (mg) or 6.5 mg nitroglycerin per tablet; Key Pharmaceuticals, Inc., 18425 NW. 2d Ave., P.O. Box 694307, Miami, FL 33169–1307.

2 NDA 16–447; Nitrospan (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; USV Laboratories, Division USV Pharmaceutical Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707.

3. NDA 16–518; Nitro-Bid (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137.

4. NDA 16–975; Nitro-Bid (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Marion Laboratories.

5. NDA 17–384; Nitrong (controlled-release) Tablets containing 2.6 mg nitroglycerin per tablet, Wharton Laboratories, Inc., Division U.S. Ethicals, Inc., 37–02 48th Ave., Long Island City, NY 11101.

6. ANDA 86–110; Sustachron (controlled-release) Tablets containing 6.5 mg nitroglycerin per tablet; Forest Laboratories, 300 Prospect St., Inwood, NY 11696.

7. ANDA 86–112; Sustachron (controlled-release) Tablets containing 2.6 mg nitroglycerin per tablet; Forest Laboratories.

8. ANDA 86–126; Nitrong (controlled-release) Tablets containing 6.5 mg nitroglycerin per tablet; Wharton Laboratories, Inc.

9. ANDA 86–132; Nitro-Bid (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Marion Laboratories.

10. ANDA 86–133; Nitro-Bid (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Marion Laboratories.

11. ANDA 86–138; Nitrong (controlled-release) Tablets containing 2.6 mg nitroglycerin per tablet; Wharton Laboratories.

12. ANDA 86–214; Nitrospan (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; USV Laboratories.

13. ANDA 86–228; Nitroglycerin Controlled-Release Capsules containing 2.5 mg of the drug per capsule; Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

14. ANDA 86–230 Nitroglycerin Controlled-Release Capsules containing 6.5 mg of the drug per capsule; Cord Laboratories.

15. ANDA 86–425; Nitro-Bid (controlled-release) Capsules containing 9 mg nitroglycerin per capsule; Marion Laboratories.

16. ANDA 86–426; Nitro-Bid (controlled-release) Capsules containing 13 mg nitroglycerin per capsule; Marion Laboratories.

17. ANDA 86–537; Nitroglycerin Controlled-Release Capsules containing 6.5 mg of the drug per capsule; KV Pharmaceutical Co., 2530 South Hanley Rd., St. Louis, MO 63144.

18. ANDA 86–538; Nitroglycerin Controlled-Release Capsules containing 2.5 mg of the drug per capsule; KV Pharmaceutical.

19. ANDA 86–649; Sustachron (controlled-release) Tablets containing 10 mg nitroglycerin per tablet; Forest Laboratories.

20. ANDA 86–787; Sustac (controlled-release) Tablets containing 10 mg nitroglycerin per tablet; Forest Laboratories.

21. ANDA 86–869; Nitrospan (controlled-release) Capsules containing 6.5 mg of nitroglycerin per capsule; USV Laboratories.

22. ANDA 86–891; Nitroglycerin Controlled-Release Capsules containing 2.5 mg of the drug per capsule; Lederle Laboratories, Division of American Cyanamid Co., North Middletown Rd., P.O. Box 500, Pearl River, NY 10965.

23. ANDA 86–894; Nitroglycerin Controlled-Release Capsules containing 6.4 mg of the drug per capsule; Lederle Laboratories.

24. ANDA 87–109; Nitroglycerin Controlled-Release Capsules containing 9 mg of the drug per capsule; KV Pharmaceuticals.

25. ANDA 87–110; Nitroglycerin Controlled-Release Capsules containing 13 mg of the drug per capsule; KV Pharmaceuticals.

26. ANDA 87–229; Nitrobon (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Inwood Laboratories, Inc., Division of Forest Laboratories, Inc., 300 Prospect St., Inwood, NY 11696.

27. ANDA 87–484; Nitroglycerin Controlled-Release Capsules containing 6.5 mg of the drug per capsule; Ascot Hospital Pharmaceuticals, Inc., 8055 North Ridgeway Ave., Skokie, IL 60076.

28. ANDA 87–485; Nitroglycerin Controlled-Release Capsules containing 6.5 mg of the drug per capsule; Ascot Hospital Pharmaceuticals.

29. ANDA 87–544; Nitrobon (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Ascot Hospital Pharmaceuticals.

30. ANDA 87–715; Nitrong (controlled-release) Tablets containing 9 mg nitroglycerin per tablet; Wharton Laboratories.

31. ANDA 87–814; Nitro-Time (controlled-release) Capsules containing 2.5 mg nitroglycerin per capsule; Time Cap Laboratories, 36 New York Ave., Westbury, NY 11590.

32. ANDA 87–815; Nitro-Time (controlled-release) Capsules containing 6.5 mg nitroglycerin per capsule; Time Cap Laboratories.

33. ANDA 87–816; Nitro-Time (controlled-release) Capsules containing 9 mg nitroglycerin per capsule; Time Cap Laboratories.

34. ANDA 87–975; Nitroglycerin Controlled-Release Capsules containing 2.5 mg of the drug per capsule; The Vitarine Co., Division of Phoenix Pharmaceutical, Inc., 227–15 North Conduit Ave., Springfield Gardens, NY 11413.

35. ANDA 87–976; Nitroglycerin Controlled-Release Capsules containing 6.5 mg of the drug per capsule; The Vitarine Co., Inc.

36. ANDA 88–220; Nitroglycerin Controlled Release Capsules containing 9 mg of the drug per capsule; Cord Laboratories.

37. ANDA 88–509; Nitroglycerin Controlled Release Capsules containing 9 mg of the drug capsule; Phoenix Pharmaceutical, Inc., 227–15 North Conduit Ave., Springfield Gardens, NY 11413.

New Drug Status

A drug product that contains oral nitroglycerin (controlled-release) is regarded as a new drug (21 U.S.C. 321(p)) and an approved new drug application is required for marketing it. The new drug applications listed above represent (1) NDA's approved on the

basis of safety before effectiveness studies were required and (2) ANDA's conditionally approved under the temporary exemption that allowed these products to be marketed while effectiveness studies were conducted. None of these applications is approved on the basis of effectiveness of the drug product. Therefore, supplemental new drug applications are now required to revise the labeling and to provide additional information necessary for full approval of the NDA's and ANDA's on the basis of effectiveness, as well as safety.

In addition to the holders of the applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to a drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

Conditions for Approval and Marketing

The Food and Drug Administration has reviewed all available evidence and concludes that single-entity oral controlled-release nitroglycerin is effective for the indications in the labeling conditions below. The agency is prepared to approve abbreviated new drug applications for products containing oral controlled-release nitroglycerin as a single-entity and supplements to previously approved new drug applications and conditionally approved abbreviated new drug applications under the conditions described in this notice.

A. *Form of drug.* The drug is in controlled-release tablet or capsule form suitable for oral administration.

B. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labled to comply with all requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The general outline of the labeling is as follows:

Product Name (Nitroglycerin) Package Insert

Description

Nitroglycerin, and organic nitrate, is a vasodilator which has effects on both arteries and veins. The chemical name for nitroglycerin is 1,2,3 propanetriol trinitrate ($C_3H_5N_3O_9$). The compound has a molecular weight of 227.09. The chemical structure is: (To ber inserted by manufacturer or distributor)

Each [Product Name] controlled-release (capsule or tablet) contains: [ ] mg nitroglycerin (description of capsule or tablet).

Clinical Pharmacology

The principal pharmacological action of nitroglycerin is relaxation of vascular smooth muscle, producing a vasodilator effect on both peripheral arteries and veins with more predominant effects on the latter. Dilation of the post-capillary vessels, includings large veins, promotes peripheral pooling of blood and decreases venous return to the heart, thereby reducing left ventricular end-diastolic pressure (pre-load). Arteriolar relaxation reduces systemic vascular resistance and arterial pressure (after-load).

The mechanism by which nitroglycerin relieves angina pectoris is not fully understood. Myocardial oxygen consumption or demand (as measured by the pressure-rate product, tension-time index, and stroke work index) is decreased by both the arterial and venous effects of nitroglycerin and, presumably, a more favorable supply-demand ratio is achieved. While the large epicardial coronary arteries are also dilated by nitroglycerin, the extent to which this actions contributes to relief of exertional angina is unclear.

Nitroglycerin is rapidly metabolized in vivo, with a liver reductase enzyme having primary importance in the formation of glycerol nitrate metabolites and inorganic nitrate. Two active major metabolites, 1–2 and 1–3 dinitroglycerols, the products of hydrolysis, although less potent as vasodilators, have longer plasma half-lives than the parent compound, and appear in substantial concentration. The dinitrates are further metabolized to mononitrates (considered biologically inactive with respect to cardiovascular effects) and ultimately glycerol and carbon dioxide. There is extensive first-pass deactivation by the liver of nitroglycerin following gastrointestinal absorption, but the hepatic reductase activity may be saturated by some doses of oral nitroglycerin, resulting in prolonged pharmacologic effects. Hemodynamic studies employing plethysmographic methods in human volunteers have demonstrated that oral nitroglycerin (single dose 6.5 mg) has biologic effects significantly different from placebo for up to 8 hours.

Adequate studies defining the pharmacokinetics of [Product Name] have not been reported. The clinical relevance of nitroglycerin blood levels has not been established, since therapeutic levels of the drug and metabolites have not been defined. Therapeutic doses of nitroglycerin reduce systolic and mean arterial blood pressures, expecially when the patient assumes upright posture. Systolic blood pressure is decreased for up to 4 hours after a single dose of 6.5 mg of swallowed controlled release nitroglycerin.

Clinical studies indicate that oral controlled-release nitroglycerin may reduce abnormally elevated left ventricular end-diastolic pressure (LVEDP), a hemodynamic occurrence during acute episodes of angina pectoris. Although there have been no reported, invasively measured, hemodynamic studies of [Product Name] in patients with angina pectoris, controlled clinical trials in patients with congestive heart failure have shown significant decreases in mean LVEDP for as long as 4 hours after a single dose (6.5–19.5 mg) of oral nitroglycerin. The onset of hemodynamic effect from the swallowed form of nitroglycerin is not sufficiently rapid to be of use in aborting an acute episode of angina pectoris.

Indications and Usage

[Product Name] is indicated for the prevention of angina pectoris due to coronary artery disease. Controlled clinical trials have demonstrated that this form of nitroglycerin is effective in improving exercise tolerance in patients with exertional angina pectoris. Controlled clinical studies of 2.6 mg and larger (6.5–26 mg) does in patients with angina pectoris have shown improvement in treadmill exercise time for at least 4 hours after dosing.

Contraindications

Nitroglycerin is contraindicated in patients who have shown purported hypersensitivity or idiosyncracy to it or other nitrates or nitrites.

Warnings

The use of any form of nitroglycerin during the early days of acute myocardial infarction requires particular attention to hemodynamic monitoring and clinical status. In general a long-acting dosage form such as [ ] should not be used because its effects

are difficult to terminate rapidly should excesive hypotension or tachycardia develop.

Precautions

General

Severe hypotension, particularly with upright posture, may occur even with small doses of nitroglycerin. The drug therefore should be used with caution in subjects who may have volume depletion from diuretic therapy or in patients who have low systolic blood pressure (e.g., below 90 mm Hg). Paradoxical bradycardia and increased angina pectoris may accompany nitroglycerin-induced hypotension.

Nitrate therapy may aggravate the angina caused by hypertrophic cardiomyopathy.

Tolerance to this drug and cross-tolerance to other nitrates and nitrites may occur. Tolerance to the vascular and antianginal effects of nitrates has been demonstrated in clinical trials, experience through occupational exposure, and in isolated tissue experiments in the Laboratory.

The importance of tolerance to the use of nitroglycerin in the management of patients with angina pectoris has not been determined. In controlled clinical trials in patients with angina pectoris, sustained therapy with some nitrate preparations resulted in significantly less and shorter duration of improvement in exercise time on stress testing than did acute therapy. However, a controlled study of repetitive doses of oral nitroglycerin showed treadmill performance to be significantly better with drug than with placebo in 18 patients with angina pectoris after 2 weeks of therapy.

In industrial workers continuously exposed to nitroglycerin, tolerance clearly occurs. Moreover, physical dependence also occurs since chest pain, acute myocardial infarction, and even sudden death have occurred during temporary withdrawal of nitroglycerin from the workers. In various clinical trials in angina patients, there are reports of anginal attacks being more easily provoked and of rebound in the hemodynamic effects soon after nitrate withdrawal. The relative importance of these observations to the routine, clinical use of nitroglycerin are not known. However, it seems prudent to gradually withdraw patients from nitroglycerin when the therapy is being terminated, rather than stopping the drug abruptly.

Drug Interactions

Alcohol may enhance sensitivity to the hypotensive effects of nitrates.

Nitroglycerin acts directly on vascular muscle. Therefore, any other agents that depend on vascular smooth muscle as the final common path can be expected to have decreased or increased effect depending upon the agent.

Marked symptomatic orthostatic hypotension has been reported when calcium channel blockers and oral controlled-release nitroglycerin were used in combination. Dose adjustments of either class of agents may be necessary.

Carcinogenesis, Mutagenesis, Impairment of Fertility

No long-term studies in animals have been performed to evaluate carcinogenic potential of [Product Name].

Pregnancy

Pregnancy Category C. Animal reproduction studies have not been conducted with [Product Name]. It is also not known whether nitroglycerin can cause fetal harm when administered to a pregnant woman or can affect reproduction capacity. Nitroglycerin should be given to a pregnant woman only if clearly needed.

Nursing Mothers

It is not known whether nitroglycerin is excreted in human milk. Because many drugs are excreted in human milk, caution should be exercised when [Product Name] is administered to a nursing woman.

Pediatric Use

Safety and effectiveness in children have not been established.

Adverse Reactions

Adverse reactions to [Product Name], particularly headache and hypotension, are generally dose-related. In clinical trials at various doses of nitroglycerin, the following adverse effects have been observed:

Headache, which may be severe and persistent, is the most commonly reported side effect of nitroglycerin, with an incidence in the order of about 50% in some studies. Cutaneous vasodilation with flushing may occur. Transient episodes of dizziness and weakness, as well as other signs of cerebral ischemia associated with postural hypotension, may occasionally develop. An occasional individual may exhibit marked sensitivity to the hypotensive effects of nitrates and severe responses (nausea, vomiting, weakness, restlessness, pallor, perspiration, and collapse) may occur even with therapeutic doses of nitrates. Drug rash and/or exfoliative dermatitis have been reported in patients receiving nitrate therapy. Nausea and vomiting appear to be uncommon.

Overdosage

Signs and Symptoms

Nitrate overdosage may result in: Severe hypotension, persistent throbbing headache, vertigo, palpitation, visual disturbance, flushing and perspiring skin (later becoming cold and cyanotic), nausea and vomiting (possibly with colic and even bloody diarrhea), syncope (especially in the upright posture), methemoglobinemia with cyanosis and anorexia, initial hypernea, dyspnea and slow breathing, slow pulse (dicrotic and intermittent), heart block, increased intracranial pressure with cerebral symptoms of confusion and moderate fever, paralysis and coma followed by clonic convulsions, and possibly death due to circulatory collapse.

Treatment of Overdosage

Keep the patient recumbent in a shock position and comfortably warm. Gastric lavage may be of use if the medication has only recently been swallowed. Passive movement of the extremities may aid venous return. Administer oxygen and artificial ventilation if necessary. If methemoglobinemia is present, administration of methylene blue (1% solution), 1-2 mg/kg intravenously, may be required.

Methemoglobin

Case reports of clinically significant methemoglobinemia are rare at conventional doses of organic nitrates. The formation of methemoglobin is dose-related and in the case of genetic abnormalities of hemoglobin that favor methemoglobin formation, even conventional doses of organic nitrates could produce harmful concentrations of methemoglobin.

WARNING: Epinephrine is ineffective in reversing the severe hypotensive events associated with overdose. It and related compounds are contraindicated in this situation.

Dosage and Administration

The usual starting dose for [Product Name] is [2.5 mg or 2.6 mg] taken 3 or 4 times daily. Controlled trials have been carried out to 5 hours after dosing; therefore, it is not known whether the drug is effective in prevention of exertional angina beyond 5 hours after dosing.

[Product Name] should be TITRATED upward until a dose effective in controlling angina is determined or until side effects limit the dose. The dose generally may be increased by [2.5 or

2.6] mg increments 2 to 4 times daily over a period of days or weeks. Doses as high as 26 mg given 4 times daily have been reported effective in angina pectoris patients.

Administer the smallest effective dose 3 to 4 times daily unless clinical response suggests a different regimen. At initiation of therapy or change in dosage, the blood pressure (patient standing) should be monitored.

[Product Name] (tablets or capsules) must be swallowed. They are NOT FOR CHEWING OR FOR SUBLINGUAL USE. [Product Name] (tablets or capsules) are not intended for immediate relief of anginal attacks.

How Supplied

(To be inserted by manufacturer or distributor)

C. *Marketing status.* 1. Marketing a drug product that is now the subject of an approved or effective new drug application or conditionally approved abbreviated application may be continued provided that, on or before November 6, 1984, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) or new drug application FD-356H (21 CFR 314.1(c)).

2. In addition, to permit full approval on the basis of effectiveness, as well as safety, of the new drug applications and abbreviated applications that are now approved, effective, or conditionally approved on the basis of safety only, the holder of each such application is required to supplement its application to provide acceptable in vitro dissolution tests and in vivo bioavailability/bioequivalence (measuring plasma or serum concentrations of parent compound and its principal metabolites) studies on the drug product in accord with item D below. To furnish adequate time for review, bioavailability data should be submitted on or before March 6, 1985. For any application not fully approved by September 3, 1985, the agency will begin proceedings to withdraw the previous approval based only on safety and to remove those products from the market.

3. Approval of an abbreviated new drug application (21 CFR 314.2) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) or new drug application form FD-356H (21 CFR 314.1(c)) must be obtained before marketing such products. Such an abbreviated new drug application is required to contain evidence from in vivo bioavailability studies as described in item D below. Evidence from in vitro dissolution testing is also required. Marketing drug products before approval of a new drug application will subject those products, and those persons who caused the products to be marketed, to regulatory action.

D. *Bioavailability requirements.* 1. As stated in the **Federal Register** of August 23, 1977 (42 FR 42311), the provision of 21 CFR 320.22(c) waiving bioavailability data for certain drugs does not necessarily apply to drug products first announced as effective in DESI notices published after January 7, 1977. This is the first notice announcing that oral nitroglycerin (controlled release) is effective, and the agency has determined that because of actual or potential bioavailability data are not waived.

2. Under the exempting notices, manufacturers were allowed to demonstrate bioavailability via an acceptable bio-screen, e.g., the digital plethysmography (DPG) method, and, as a condition for marketing, could show only that sufficient drug had been absorbed to elicit a positive measurable indication of pharmacologic activity. At that time, sensitive methodology for determination of blood levels of the various organic nitrate coronary vasodilators had not been fully developed. Suitable methodology is now available for assessing bioavailability and defining the pharmacokinetics of oral nitroglycerin through blood level determinations.

3. Studies are currently underway that are intended to establish the absolute and relative bioavailability for oral nitroglycerin. The products used in these studies have been selected as standards because acceptable clinical efficacy data are available for them. Manufacturers that submit new applications or that hold previously approved or conditionally approved applications for other formulations will be required to match these standards by performing bioavailability/bioequivalence studies (blood level versus time for parent drug and major metabolites). Failure of a product to match may require clinical dose ranging studies as a condition for marketing. Requests for guidance on conducting dissolution tests and bioavailability/bioequivalence studies are to be addressed to the Division of Biopharmaceutics at the address given above.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: August 30, 1984.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 84-23655 Filed 9-6-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Izembek National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review, Availability and Public Hearings, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public hearings.

SUMMARY: The U.S. Fish and Wildlife Service has prepared for public review a draft comprehensive conservation plan, wilderness review, and environmental impact statement (CCP/EIS) for the Izembek National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), section 3(d) of the Wilderness Act of 1964, and section 102(2)(c) of the National Environmental Policy Act of 1969. The draft CCP/EIS describes two strategies for long-term management of the 321,000-acre refuge. Both proposals retain for the National Wilderness Preservation System, approximately 300,000 acres (93% of the refuge) of previously designated wilderness.

DATES: Comments of the draft CCP/EIS must be submitted on or before December 7, 1984, to receive consideration in the preparation of the final CCP/EIS.

One formal public hearing and five public meetings will be held as scheduled below to receive comments on the draft CCP/EIS:

PUBLIC HEARING

Date	Time	Place
Nov. 2, 1984	7 p.m.	Fairview Community Center, 1121 East 10th Ave. Anchorage, Ak

PUBLIC MEETINGS

Date	Time	Place
Nov. 5, 1984	7 p.m.	Cold Bay Community Service Facility Bldg.
Nov. 6, 1984	2 p.m.	False Pass, Mess Hall.
Nov. 7, 1984	10 a.m.	King Cove, Corporation Office Bldg.
Nov. 8, 1984	10:30 a.m.	Nelson Lagoon Community Bldg.
Do	7 p.m.	Sand Point Municipal Bldg.

Written and oral testimony will be accepted at the public hearing and will be transcribed for the official record. Written and oral comments will also be accepted at the public meetings. All comments and testimony, both oral and written, received prior to the above date will be considered in preparation of the final CCP/EIS.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: William Knauer).

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, telephone (907) 786–3399.

A summary of the draft CCP/EIS has been prepared for general distribution. Copies of this summary will be sent to all persons and organizations who participated in scoping or received editions of the planning bulletin. The summary is available upon request from Mr. William Knauer.

Copies of the draft CCP/EIS have been sent to all agencies that participated in the scoping process and to agencies and persons that have already requested copies. Those wishing to review the full technical draft may obtain a copy by contacting Mr. Knauer. Copies of the draft CCP/EIS are also available for review at the above location, at the Izembek National Wildlife Refuge Office, Cold Bay, Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, 18th and C Street, NW, Department of the Interior, Washington, D.C. 20240

U.S. Fish and Wildlife Service, Wildlife Resources, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, OR 97232

U.S. Fish and Wildlife Service, Wildlife Resources, 500 Gold Avenue SW, Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Wildlife Resources, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Wildlife Resources, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Wildlife Resources, One Gateway Center, Suite 700, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Wildlife Resources, 134 Union Boulevard, Lakewood CO 80225

SUPPLEMENTARY INFORMATION: The draft CCP/EIS for the Izembek National Wildlife Refuge was developed by the U.S. Fish and Wildlife Service, Department of the Interior to fulfill the requirements of section 304 of ANILCA relating to preparation of comprehensive conservation plans and the requirements of section 1317 of ANILCA and section 3(d) of the Wilderness Act relating to general wilderness suitability review of non-wilderness refuge lands.

Major issues addressed by the plan include fish and wildlife management; disturbance of migratory bird populations; development and use of adjacent state and private lands; public use; and wilderness management. The draft CCP/EIS addresses two strategies for long-range management of the refuge including one that would continue current management (the preferred proposal). The other strategy emphasizes maintenance of fish and wildlife populations in their present state while creating an enhanced public use area; wilderness and cooperative management area designations would not change.

The plan also describes the general wilderness suitability of up to 300,000 acres of non-wilderness refuge lands under each management alternative. This complies with section 1317(a) of ANILCA which requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his recommendations to the President by 1985.

Other government agencies and the general public contributed to the development of this draft CCP/EIS. The Notice of Intent to prepare the draft CCP/EIS was published in the October 29, 1981, **Federal Register**. Public meetings were held during November 1981 in Cold Bay, Sand Point, and Anchorage, and during January, 1983, in Nelson Lagoon, King Cove, and False Pass, Alaska. Several editions of a planning bulletin were sent to more than 500 persons and organizations. During August 24–25, 1982, a series of workshops was held in Anchorage to help define issues involving refuge resources.

All agencies and persons wishing to comment are urged to do so as soon as possible. However, all comments received by the date given above will be considered in preparation of the final EIS.

Dated: August 23, 1984.

Jon M. Nelson,

Acting Regional Director.

[FR Doc. 84–23141 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

Public Land Sale in Bingham and Franklin Counties, Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, Competitive Sale of Public Lands in Bingham and Franklin Counties, Idaho.

SUMMARY: Based on public support land use plans, the following lands have been examined and identified for disposal under section 203(a) of the Federal Land Policy and Management Act of 1976, for no less than appraised fair market value (FMV).

Tract	Legal description	Acres	FMV
I–19693	T. 4 S., R. 40 E., B.M. Section 19: Lot 2.	45.3	$3,400
I–20351	T. 14 S., R. 38 E., B.M. Section 34: SE¼NW¼.	40	3,000

Sealed bids only are solicited for each tract offered. Acceptable bids must meet the FMV or higher and include a deposit of one-fifth of the full price bid. In addition, a bid on I–19693, will constitute an application for conveyance of all minerals, except oil and gas. The declared high bidder will be required to deposit a $50 non-refundable filing fee to process the conveyance. Failure to do so will result in disqualification as high bidder.

The lands will be subject to the following reservations and conditions when patented:

I–19693

1. Ditches and canals.
2. Oil and gas.
3. All valid existing rights and reservations of record.

I–20351

1. Ditches and canals.
2. All minerals.
3. All valid existing rights and reservations of record.

As a condition of sale, both tracts will be subject to continued use of existing livestock grazing privileges which will expire 2/28/1989. Upon publication in the **Federal Register** the tracts are

segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of 270 days, or until patent is issued.

Dates and Addresses: Bids should be submitted to the area manager, Pocatello Resource Area Office, 250 South 4th Ave., Pocatello, Idaho, 83201, prior to the sale time. Bids will be opened on November 27, 1984, at 1:00 p.m. in the basement meeting room B–43 in the Federal Building, 250 South 4th Avenue, Pocatello, Idaho. If no bids are received by this date, bids will be accepted until, and opened on, December 18, 1984, at 11:00 a.m. at the Idaho Falls District BLM, 940 Lincoln Road, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning reservations, conditions, terms, bidding procedures and other items should be obtained by contacting Wallace Evans, Area Manager, Pocatello Resource Area, 250 South 4th Avenue, Pocatello, Idaho 83201, or by calling (208) 236–6860 during office hours.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Area manager at the above address.

Dated: August 31, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84–23661 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–84–M

[NM 1582]

New Mexico; Notice of Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Defense proposes that a 4,106.61 acre withdrawal for the Air Force continue for an additional 25 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received on or before December 6, 1984.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505–988–6659.

SUPPLEMENTARY INFORMATION: The Department of Defense proposes that the existing land withdrawal made by Public Land Order 4627 of April 14, 1969, be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 17 S., R. 10 E.,
- Sec. 29, NW¼, NE¼SW¼ and S½SW¼;
- Sec. 30, SE¼SE¼;
- Sec. 31, N½N½;

T. 18 S., R. 10 E.,
- Sec. 5, lots 1 to 4, inclusive, and S½S½;
- Sec. 8, N½ and SE¼SE¼;
- Sec. 9, W½W½ and SE¼SW¼;
- Sec. 16, W½SE¼ and W½E½SE¼;
- Sec. 17, NE¼NE¼, S½NE¼ and N½SE¼;
- Sec. 21, NE¼, N½NW¼ and NE¼SE¼;
- Sec. 22, SW¼ and SW¼NW¼;
- Sec. 26, W½SW¼ and SE¼SW¼;
- Sec. 27, SW¼NE¼, W½ and SE¼;
- Sec. 28, E½SE¼;
- Sec. 33, E½NE¼;
- Sec. 34, N½ and E½SE¼;
- Sec. 35, SW¼NE¼, W½ and SE¼;

T. 19 S., R. 10 E.,
- Sec. 2, NE¼;
- Sec. 3, lot 1.

The areas described aggregate approximately 4,106.61 acres.

The purpose of the withdrawal is in connection with Holloman Air Force Base. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: August 31, 1984.

Charles W. Luscher,

State Director.

[FR Doc. 84–23663 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–FB–M

[NM 012072]

New Mexico; Notice of Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Defense proposes that a 611.78 acre withdrawal for the Air Force continue for an additional 25 years. The lands will remain closed to surface entry and mining and will be opened to mineral leasing.

DATE: Comments should be received on or before December 6, 1984.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505–988–6659.

SUPPLEMENTARY INFORMATION: The Department of Defense proposes that the existing land withdrawal made by Public Land Order 1157 of June 1, 1955, be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 17 S., R. 8 E.,
- Sec. 22, E½SE¼, that portion lying north of U.S. Highway 70;
- Sec. 23, E½, E½W½, W½SW¼, those portions lying north of U.S. Highway 70;

T. 17 S., R. 8 E.,
- Sec. 24, that portion lying north of U.S. Highway 70;
- Sec. 26, NW¼NW¼NW¼, that portion lying north of U.S. Highway 70;
- Sec. 27, E½,NE¼, that portion lying north of U.S. Highway 70;

T., 17 S., R. 9 E.,
- Sec. 6, lots 1, 2, 3, and 4.

The areas described aggregate approximately 611.78 acres.

The purpose of the withdrawal is for use in connection with Holloman Air Force Base. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, and the mineral leasing laws. The lands will be opened to the

mineral leasing laws to the extent consistent and compatible with military operations.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: August 30, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84-23664 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-FB-M

NM 0450803

New Mexico; Notice of Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: The Department of Defense proposes that a 80.00 acre withdrawal for the Air Force continue for an additional 25 years. The lands will remain closed to surface entry and mining but will be open to mineral leasing.

DATE: Comments should be received on or before December 6, 1984.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505-988-6659.

SUPPLEMENTARY INFORMATION: The Department of Defense proposes that the existing land withdrawal made by Public Land Order 3434 of August 14, 1964, be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 17 S., R. 10 E.,
Sec. 31, NE¼SE¼;
Sec. 31, NW¼NW¼.
The area described contains 80.00 acres.

The purpose of the withdrawal is for use in connection with Holloman Air Force Base. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, and the mineral leasing laws. The lands will be opened to the mineral leasing laws to the extent consistent and compatible with military operations.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: August 30, 1984.

Monte G. Jordan,

State Director.

[FR Doc. 84-23665 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-FB-M

[NM 056374]

New Mexico; Notice of Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Defense proposes that a 100.00 acre withdrawal for the Air Force continue for an additional 25 years. The lands will remain closed to surface entry and mining but will be opened to mineral leasing.

DATE: Comments should be received on or before December 6, 1984.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505-988-6659.

SUPPLEMENTARY INFORMATION: The Department of Defense proposes that the existing land withdrawal made by Public Land Order 2091 of May 17, 1960, be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 17 S., R. 8 E.,
Sec. 21, N½NW¼ and W½NW¼NE¼.
The area described contains 100.00 acres.

The purpose of the withdrawal is for use in connection with Holloman Air Force Base. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, and the mineral leasing laws. The land will be opened to the mineral leasing laws to the extent consistent and compatible with military operations.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: August 30, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84-23666 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-FB-M

Combined Hydrocarbon Development; Intent to Prepare an Environmental Assessment for the Sunnyside Special Tar Sand Area in the Diamond Mountain Resource Area, Vernal District, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Assessment for the Sunnyside Special Tar Sand Area in the Diamond Mountain Resource Area, Vernal District, Utah.

SUMMARY: This notice announces the intent of the Utah, Vernal District, Bureau of Land Management Office, to prepare an Environmental Assessment for potential combined hydrocarbon (tar sand) development. The potential tar sand production would occur in the Sunnyside Special Tar Sand Area located in portions of Townships 11 and 12 South, Ranges 14 to 16 East, Salt Lake Base and Meridian, in the Nine Mile Canyon vicinity of Duchesne and Carbon Counties, Utah.

The possible effects of the proposal upon the following resources will be analyzed: Wildlife, including threatened and endangered fauna; soils; watershed; cultural resources; paleontology; vegetation, including threatened and endangered flora; air quality; minerals; visual resources; and socioeconomics.

The above constitutes a tentative list of the general issues that need to be addressed.

Written comments, including those involving additional general or specific issues will be received through October 15, 1984. The address for comments or information is as follows: Bureau of Land Management, Ralph Heft, Area Manager, 170 South 500 East, Vernal, Utah 84078, (801) 789–1362.

The Draft Environmental Assessment is scheduled for publication on March 21, 1985. Copies available upon request.

Dated: August 29, 1984.

Donald C. Alvord,

Acting District Manager.

[FR Doc. 84–23662 Filed 9–6–84; 8:45 am]

BILLING CODE 4310-DQ-M

[C–37808 and C–37779]

Colorado; Realty Action Sale of Public Lands in Rio Blanco County, Colorado; Serial Number C–37808 (Parcels 1 Through 9), and C–37779

The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value of each parcel.

Land Disposal

Parcel No.	Location	Acreage	Minimum bid price
C–37808–1	Township 1 North, Range 92 West. Section 17: NW¼SW¼ 6th P.M., Rio Blanco County, CO.	40	$4,000
C–37808–2	Township 1 North, Range 92 West. Section 17: TR40–2 (5.18 acres) TR40–4 (1.36 acres) 6th P.M., Rio Blanco County, CO.	6.54	650
C–37808–3	Township 1 North, Range 92 West. Section 18: SE¼SW¼ 6th P.M., Rio Blanco County, CO.	40	4,000
C–37808–4	Township 1 North, Range 92 West. Section 19: TR40–6 (5.18 acres) Section 20: TR40–6 (6.54 acres) 6th P.M., Rio Blanco County, CO.	11.72	1,170
C–37808–5	Township 1 North, Range 92 West. Section 30: Lot (2.19 acres) Lot 3 (12.38 acres) Lot 25 (1.12 acres) 6th P.M., Rio Blanco County, CO.	14.69	1,470
C–37808–6	Township 1 North, Range 93 West. Section 11: Lot 7 6th P.M., Rio Blanco County, CO.	2.00	200
C–37808–7	Township 1 North, Range 93 West Section 15: Lot 5 6th P.M., Rio Blanco County, CO.	4.54	450
C–37808–8	Township 1 North, Range 93 West Section 21: Lot 10 (0.12 acres) Lot 14 (2.82 acres) Lot 27 (4.13 acres) 6th P.M., Rio Blanco County, CO.	7.07	700
C–37808–9	Township 1 North, Range 93 West. Section 34: Lot 29 (3.94 acres) Lot 31 (3.03 acres) 6th P.M., Rio Blanco County, CO.	6.97	520
C–37779	Township 2 North, Range 102 West. Section 34: Lot 7 6th P.M., Rio Blanco County, CO.	6.01	15,000

The lands have not been used for and are not required for any Federal purpose. The location and physical characteristics of each parcel make it difficult and uneconomical to manage as public lands. Disposal would not have any significant effect on resource values and would best serve the public interest. The proposed sale will be consistent with the Bureau of Land Management land use plans, and would not conflict with local planning and zoning. The sale would enhance land use compatibility with adjoining private lands.

Each patent issued as a result of the proposed sale will be subject to:

1. All valid existing rights and reservations of record including oil and gas leases;

2. Will contain a reservation to the Unied States for right-of-way for ditches and canals constructed by the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

3. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

4. Patent issued for parcel number C–37779 will also be subject to those rights for:

a. A 69 kV electric transmission line as has been granted to Moon Lake Electric Assoc., Inc. under right-of-way Colorador 084045(50');

b. A buried natural gas pipeline (4 inches) servicing the Rangely Power Plant as has been granted to Moon Lake Electric Assoc., Inc. under right-of-way Colorado 0111155 (20');

c. A 69 kV electric transmission line as has been granted to Moon Lake Electric Assoc., Inc. under right-of-way Colorado 014640 (25');

d. A telephone line known as the Rangely Branch Pole Line as has been granted to Mountain States Telephone and Telegraph Company under right-of-way Denver (Land Office) 051953 (8').

As a condition of sale of parcels number C–37808–1 and C–37808–3, the successful high bidders must enter into an agreement with Mr. Tom Theos of Meeker, Colorado 81641, the terms and conditions of which must be comparable to those conditions contained in grazing lease no. CO–016–1512 which will preserve his privilege to use the land for grazing purposes for the duration of his term lease.

Also as a condition of sale of parcels number C–37808–1 and C–37808–3, the successful high bidder will be required to reasonably compensate Mr. Tom Theos for his interest in the range improvement known as the Swallow Fork Fence #1818 which is under a Range Improvement Permit with the BLM.

Parcel numbers C–37808–1, C–37808–3, C–37808–5 and C–37808–8 will be offered by modified competitive bidding to contiguous landowners only. Parcel numbers C–37808–2 and C–37808–4 will be offered by direct sale to Mr. Tom Theos of Meeker, Colorado 81641, owner of all adjacent property. Parcel numbers C–37808–6 and C–37808–9 will be offered by competitive bidding. A condition to

the sale of parcel number C–37808–9 requires the successful high bidder to apply for all minerals—except oil, gas and coal—beneath the parcel within 30 days from the date of sale; and pursuant to 43 CFR 2711.5–1, must submit a $50.00 non-refundable filing fee with the application. Parcel C–37808–7 will be offered by modified competitive bidding, and Mr. W. C. Moore of Meeker, Colorado 81641, owner of all adjacent property, will have a preference right to purchase the land by meeting the highest bid within a 30 day period following the date of sale. Parcel C–37779 will be offered by direct sale to W. C. Striegel, Inc. of Rangely, Colorado 81648, adjacent land owner.

The public sale will be held at the Bureau of Land Management, White River Resource Area Office, 73544 Highway 64, west of Meeker, Colorado 81641, at 1:00 p.m. on December 5, 1984. Sealed bids will be accepted until 11:00 a.m. on the date of the sale; the sealed bids willbe opened at 1:00 p.m.

The law requires all bidders be citizens of the United States, 18 years of age or older; or, in the case of a corporation, be subject to the laws of any state or of the United States. Entities such as corporations and partnerships must be capable of holding lands or interest therein under the laws of Colorado. Bids may be made by a principle or his duly qualified agent. Each bid must be for all the land in the desired parcel, and for no less than the minimum bid price. Bids for more than one parcel must be contained in separate envelopes. Each envelop must be sealed and the lower left corner market "Sealed Bid, Public Land Sale C———— Parcel No. ————, Sale—December 5, 1984". The sealed bid must be accompanied by a certified check, money order, bank draft or cashiers check made payable to the "Dept. of the Interior—BLM" for no less than 20% of the bid. If two or more envelopes containing valid bids of the same amount for the same parcel are received, the determination of highest bidder shall be determined by supplemental biddings. The successfully highest bidder will be required to submit the remainder of the bid offer prior to the expiration of 180 days from the date of sale. If final payment is not received within the 180 days allowed above, the high bid will be forfeited and the land will be offered to the next highest qualified bidder subject to these same conditions. All unsuccessful bids shall be returened within 30 days following the sales dates. If valid bids are not received for any parcel described herein on the date of the sale, the unsold parcels will remain available for sale on the first Wednesday of every month for the 8 months succeeding this sale beginning on January 2, 1985 and ending on August 7, 1985 at 12 noon.

Detailed information concerning this sale, including bidder qualifications, bid standards, bidding procedures, payment requirements, and final details is explained in the sales prospects which is available at the White River Resource Area Office, Bureau of Land Management, at 73544 Highway 64, west of Meeker, Colorado 81641. The planning documents and environmental assessments are also available for review at the White River Resource Area Office at the above address.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue his final determination. In the absence of any action by the District Manager, this realty action will becom a final determination of the Department of the Interior.

Terry L. Plummer,

District Manager.

[FR Doc. 84–23673 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–JB–M

[CA–15731]

California: Realty Action Sale of Public Lands in San Bernardino, San Diego and Riverside Counties; Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Sale of public lands in San Bernardino, San Diego and Riverside counties—CA 15731—Modification of bidding procedures.

SUMMARY: This document modifies the competitive bidding procedures detailed in the Notice of Realty Action published on pages 25529 and 25530 in the **Federal Register** of Thursday, June 21, 1984 (Vol. 49, No. 121). The Board of Water Commissioners for the City of San Bernardino, California will be given the opportunity to match the highest sealed bid for Parcel No. 3—CA 15367. If no sealed bids are received for the aforementioned parcel of land, the Board of Water Commissioners will purchase the subject parcel at the appraised market value. This action affects bidding for Parcel No. 3—CA 15367 only.

Background Information: On august 8, 1984, the Board of Water Commissioner's for the City of San Bernardino requested an opportunity to match the highest sealed bid for Parcel No. 3—CA 15367. The Water Department owns property adjoining the subject parcel and wishes to acquire the additional acreage for future public water development.

Dated: August 28, 1984.

Hugo W. Riecken,

Associate District Manager.

[FR Doc. 84–23725 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–40–M

Prineville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 of a meeting of the Prineville District Grazing Advisory Board to be held October 2, 1984.

The meeting will take place at 10:00 a.m. in the conference room of the Bureau of Land Management office located at 185 East 4th Street, P.O. Box 550, Prineville, OR 97754.

The agenda will center on the following items:

1. Two Rivers RMP update.
2. 1984 Annual Work Plan.

The meeting is open to the public. Anyone wishing to attend and/or make written or oral statements to the board is requested to contact the District Manager at the above address prior to September 25, 1984.

Summary minutes of the meeting will be available for review and reproduction within 30 days following the meeting.

Dated: August 28, 1984.

Maurice Ziegler,

Acting District Manager.

[FR Doc. 84–23737 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–33–M

Anchorage District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Hearing.

SUMMARY: The advisory council of the Bureau of Land Management's Anchorage District Office will meet 9 a.m., October 30, 1984, to discuss a number of topics related to the management of Federal public lands.

As required by regulation, time will be scheduled during the meeting for any member of the public wishing to address the council. Individuals requesting time on the agenda are asked to notify Joette

Storm, Public Affairs Specialist, before October 25, 1984, by calling 267–1200.

DATE: Tursday, October 30, 1984.

TIME: 9 a.m.

PLACE: Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska.

SUPPLEMENTARY INFORMATION: Agenda.

9:00 Call to order and reading of the minutes
9:15 Election of Officers for the coming year
10:00 Update on district budget, settlement program, Iditarod trail use permits, and National Wild and Scenic River plans
Noon Break for lunch
1:00 Implementation of recreation permit regulations
2:30 Break
3:00 Public comment period
4:00 Adjournment

Wayne A. Boden,

District Manager.

[FR Doc. 84–23688 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–JA–M

[A–18634]

Arizona; Conveyance of Public Land; Reconveyed Land Opened to Entry

August 29, 1984.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following described lands were transferred out of Federal ownership in exchange for privately-owned land. The lands transferred into private ownership are described as follows:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 18 W.,
Section 6, lots 1, 2, 3, 5, 6, 8, 10 S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼, W½SE¼SE¼SE¼, SW¼SE¼SE¼, N½SE¼SE¼;
Section 8, E½NW¼NW¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, NE¼NE¼, S½NE¼, NW¼, S½;
Section 18, lots 2, 3, 4, 5, E½W½, E½;
Section 20, all;
Section 28, all;
Section 30, lots 1 thru 4, incl., E½W½, E½;
Section 32, all.
T. 20 N., R. 19 W.,
Section 2, lots 1 thru 4, incl., S½N½, S½;
Section 12, all;
Section 14, all;
Section 24, all;
Section 26, all;
Section 36, all.
T. 21 N., R. 19 W.,
Section 22, all;
Section 28, all.

Comprising 9,571.01 acres in Mohave County.

Lands acquired by the United States are described as:

Gila and Salt River Meridian, Arizona

T. 14 N., R. 14 W.,
Section 1, lots 1 thru 4, incl., S½N½, S½;
Section 3, lots 1 thru 4, incl., S½N½, S½;
Section 5, lots 1 thru 4, incl., S½N½, S½;
T. 15 N., R. 14 W.,
Section 5, Lots 2, 3, 4, S½NW¼;
Section 7, lots 1 thru 4, incl., E½W½, E½;
Section 15, all;
Section 17, N½, SW¼, NE¼SE¼, W½SE¼;
Section 19, lots 1 thru 4, incl., E½W½, E½;
Section 21, all;
Section 23, E½, E½W½, N½NW¼NW¼, S½SW¼NW¼, W½SW¼;
Section 25, all;
Section 27, all;
Section 29, all;
Section 31, lots 1 thru 4, incl., E½W½, E½;
Section 33, all;
Section 35, all.
T. 14 N., R. 15 W.,
Section 1, lots 1 thru 4, incl., S½N½, S½.
T. 15 N., R. 15 W.,
Section 1, lots 1 thru 4, incl., S½NE¼, SW¼NW¼, S½;
Section 13, all;
Section 25, E½, W½NW¼, SW¼.

Comprising 12,127.23 acres in Mohave County.

The exchange was made based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land along with certain mineral interests, and the acquisition of private land by the Federal Government.

The surface of the land acquired by the Federal Government in this exchange will be open to entry under the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, at 10:00 a.m. on October 15, 1984. The mineral estate is owned by the Santa Fe Railroad Company and, therefore, will not be subject to entry under the United States mining or Mineral Leasing Laws.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–23651 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–32–M

[A–18822]

Public Land Sale; Mohave County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action; amendment—sale; public lands in Mohave County, Arizona.

SUPPLEMENTARY INFORMATION: On June 28, 1984, a Notice of Realty Action, describing the proposed sale of 3,283.80 acres of public land near Kingman, Arizona, was published in **Federal Register** Volume 49, No. 126, pages 26641 and 26642. Whereas, the sales regulations, 43 CFR Part 2710, were amended per Circular No. 2548 effective August 6, 1984, the Notice of Realty Action of June 28, 1984, shall be amended as follows:

As provided in 43 CFR 2711.1–2(d), the public lands described in the notice referenced herein shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. Any subsequent application shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of this publication, whichever occurs first.

Dated: August 29, 1984.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 84–23648 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–32–M

[OR–37205]

Realty Action Noncompetitive Sale of Public Land in Deschutes County, OR

The following described parcel of land has been examined and identified as suitable for disposal by sale under 43 CFR Part 2740 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value.

Legal description	Acreage	Fair market value
T. 17 S., R. 12 E., W.M. Section 7: Lot 5...	3.75	$10,125

The development of a home on this parcel occurred as a result of a faulty survey. Although the parcel is a part of a larger tract considered valuable for public purposes when it was conveyed from Federal ownership, it is above the rim of the river canyon and does not have recreational or scenic values.

Lot 5 is uneconomic to manage by itself, and is not suitable for management by another Federal department or agency. Likewise, it is no longer needed for the purpose that it was acquired.

The sale of this tract is consistent with the rationale of the Bureau Planning System for disposal of isolated tracts having low public values and not needed for other resource activities.

The parcel is being offered noncompetitively to avoid disruption of the adjacent land ownership pattern, and to meet Deschutes County Zoning Goals which require a lot line adjustment to consolidate this parcel with the adjacent tax lot. The parcel will be offered at the appraised fair market value to H. M. Kemple, the adjacent landowner. Physical access to the parcel is available through property of the prospective buyer, which is situated adjacent to the subject.

The sale shall be made subject to a reservation for ditches and canals, all minerals and the existing powersite withdrawal.

The parcel will not be offered for sale for at least 60 days after the date of this notice. Upon notification of sale date, the purchaser will be given 30 days to pay the full amount of the appraised fair market value.

Detailed information concerning the sale, including the planning documents, land report, and environmental assessment is available for review at the Prineville District Office, 185 E. Fourth Street, Prineville, Oregon 97754.

Dated: August 28, 1984.

Maurice Ziegler,

Acting District Manager.

[FR Doc. 84-23690 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-33-M

[OR 9605; OR 20183]

Oregon; Termination of Proiposed Withdrawal and Reservation of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service has cancelled two separate applications to withdraw 6,198.60 acres of national forest land for protection of the Rock Mesa Geologic Area. This action will open 30 acres to surface entry and mining. The balance of 6,168.60 acres remains withdrawn as part of the Three Sisters Wilderness Area.

EFFECTIVE DATE: October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. (Telephone 503-231-6905), Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION:

1. Notices of Forest Service, U.S. Department of Agriculture, applications OR 9605 and OR 20183 for withdrawal and reservation of lands were published as FR Doc. 77-4310 on page 8434 of the issue of February 10, 1977, and as FR Doc. 79-4202 on page 7819 of the issue of February 7, 1979. The purpose of the proposed withdrawals was to protect the obsidian flows and dacite domes of the Rock Mesa Geologic Area, and the following described lands were temporarily segregated from all forms of appropriation under the public land laws, including the United States mining laws, but not the mineral leasing laws:

Willamette Meridian

Deschutes and Willamette National Forests

T. 17 S., R. 8 E., unsurveyed,
- Sec. 22, S½;
- Sec. 23, S½;
- Secs. 26 and 27;
- Sec. 28, W½, including part of Mineral Survey 983;
- Sec. 29, including part of Mineral Survey 983;
- Sec. 30, E½, including part of Mineral Survey 983;
- Sec. 31, E½, including part of Mineral Survey 983;
- Sec. 32, including part of Mineral Survey 983;
- Sec. 33, W½, including part of Mineral Survey 983;
- Sec. 34;
- Sec. 35, N½.

T. 18 S., R. 8 E.,
- Sec. 3, lots 1, 2, 3, and 4, S½N½, and S½, except that parcel of land containing approximately 10 acres and identified as the Cascade Lakes Road Zone.
- Sec. 10, NE¼, except that parcel of land containing approximately 30 acres and identified as the Cascade Lakes Road Zone.

The areas described aggregate approximately 6,198.60 acres in Deschutes and Lane Counties, Oregon.

2. The Forest Service has cancelled both applications in their entirety; therefore, pursuant to the regulations contained in 43 CFR 2310.2-1(c), at 8:30 a.m., on October 15, 1984, that portion of the NE¼ of Sec. 10 T. 18 S., R. 8 E., W.M., located south of the Cascade Lakes Road Zone will be open to such forms of disposition that may by law be made of national forest lands, including location under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

3. The lands described in paragraph 1, except as provided in paragraph 2, remain withrawn from all forms of appropriation under the public land laws, including the United States mining laws, by the Three Sisters Wilderness Area designation.

Dated: August 29, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-23691 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-33-M

Two Rivers Resource Management Plan and Environmental Impact Statement; Proposed Alternatives to Facilitate Scoping

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Two Rivers Document.

SUMMARY: Pursuant to Section 43, CFR 1610.3 and 1610.4-5 of the Regulations for Resource Management Planning, the Department of Interior, Bureau of Land Management, Prineville District Office has developed proposed alternatives to facilitate scoping of the Two Rivers Resource Management Plan (RMP) and Environmental Impact Statement (EIS).

SUPPLEMENTARY INFORMATION: The plan will result in land use allocations and resource management directions for approximately 294,000 acres of public land in the Two Rivers Planning Area. The Two Rivers Planning Area is located in Gilliam, Hood River, Jefferson, Sherman, Wasco and Wheeler Counties. Major resource management issues including grazing, riparian, wildlife, forest management, land tenure, minerals, recreation and special management areas.

The draft plan and EIS will be available for public review in the spring of 1985. The final statement is scheduled to be completed in September of 1985. Decisionmaking will take place in the fall of 1985 and include publication of a record of decision and rangeland program summary in the spring of 1986. The original Notice of Intent to prepare the Two Rivers RMP EIS was published in the **Federal Register** and local news media on April 9, 1984. Four proposed alternatives have been developed to address the major resource management and allocation issues. Copies of the Two Rivers RMP Summary of Proposed Land Use Alternatives have been sent to the District's current mailing list. Copies are also available for review at BLM Prineville District Office, 185 E. Fourth Street, Prineville, OR 97754, BLM Oregon State Office, 825 NE Multnomah Street, Portland, OR.

The public is invited to submit written comments by October 9, 1984, on (1) the elements which should be in the preferred alternative plan or proposed action, (2) ideas on the formulation of other alternatives that should be addressed in the EIS, (3) ideas on issues which should be addressed in the EIS, and (4) criteria which should be used in the development or selection of a preferred alternative plan. Written public comments will be available for review in the District Office. Additional information may be obtained at the Prineville District Office during regular business hours, 7:45 a.m. to 4:30 p.m.

DATE: Comments must be received by October 9, 1984.

ADDRESS: Written comments, requests for copies of the summary document or request for further information should be directed to: Bureau of Land Management, Prineville District, ATTN: Brian Cunninghame, 185 East Fourth Street, P.O. Box 550, Prineville, Oregon 97754, Telephone: (503) 447–4115.

Dated: August 31, 1984.

Gerald E. Magnuson,

District Manager.

[FR Doc. 84–23650 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–33–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of Grand Isle Block 16 Field Federal Unit Agreement No. 14–08–0001–2932, submitted on August 27, 1984, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Grand Isle Block 16 Field Federal unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 31, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–23686 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1182, Block 11, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on August 30, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD, and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 31, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84–23724 Filed 9–6–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3543, Block 24, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Patterson, Louisiana.

DATE: The subject DOCD was deemed submitted on August 30, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected

local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 31, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-23728 Filed 9-6-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 337-TA-182/188]

Certain Fluidized Supporting Apparatus and Components Thereof; Suspension of Investigations

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has suspended the above-captioned consolidated investigations.

SUPPLEMENTARY INFORMATION: On August 22, 1984, the presiding officer certified a joint motion to the Commission which, *inter alia*, requested suspension of the above-captioned investigations under 19 U.S.C. 1337(b)(1). He also filed a recommended determination (RD) that, *inter alia*, the investigations be so suspended. Having reviewed the record, the joint motion and the RD, the Commission determined to suspend these consolidated investigations under 19 U.S.C. 1337(b)(1).

Copies of the nonconfidential version of the Commission'a Action and Order and all other nonconfidential documents filed in connection with these investigations are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel,U.S. Intenational Trade Commission, telephone 202-523-0480.

Authority: 19 U.S.C. 1337(b)(1) and 19 CFR 210.15.

Issued: August 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-23685 Filed 9-6-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Harbor Freight and Salvage Co., d/b/a Central Purchasing, Inc. (hereafter "Harbor Freight").

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 4, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: September 4, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-23684 Filed 9-6-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30539]

Rail Carriers; Ashtabula, Carson & Jefferson Railroad Co., Inc.—Operation—in Ashtabula County, OH; Modified Rail Certificate

August 27, 1984.

On July 9, 1984, notice was filed by the Ashtabula, Carson & Jefferson Railroad Co., Inc., (ACJ) for a modified certificate of public convenience and necessity under 49 CFR Part 1150 (Subpart C). As of that date, ACJ is authorized to provide service over the former line of the Consolidated Rail Corporation, in Ashtabula County, OH, known as the Jefferson Industrial Track, from the Carson-Clearance point of connection with the Youngstown Branch (approximately milepost 5.38) to Jefferson, OH, (milepost 11.63), a distance of approximately 6.25 miles. See Docket No. AB-167 (Sub-No. 513N), *Conrail Abandonment in Ashtabula County, OH* (not printed), served April 6, 1984.

The State of Ohio owns the subject line. ACJ will operate the line under an agreement with the State of Ohio Department of Transportation.

This notice shall be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the American Short Line Railroad Association.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-23674 Filed 9-6-84; 8:45 am]

BILLING CODE 7035-01-M

Railroad Operation, Acquisition, Construction, etc.; Tenneco, Inc., and Packaging Corp. of America—Control Exemption—Ekco Products, Inc. and Lake States Carriers, Inc.

[Finance Docket No. 30542]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the acquisition of control of Ekco Products, Inc. and Lake States Carriers, Inc., by Tenneco, Inc. and Packaging Corporation of America.

DATES: This exemption is effective on August 31, 1984. Petitions to reopen must be filed by September 27, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30542 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioners' Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan Area) or toll free (800) 424–5403.

Decided: August 30, 1984.

By the Commission: Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84–23675 Filed 9–6–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–15,319]

Trojan Industries, Inc. Batavia, NY; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 30, 1984 in response to a worker petition received on April 27, 1984 which was filed by the International Brotherhood of Boilermakers on behalf of workers at Trojan Industries, Inc, Batavia, New York.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 29th day of August 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–23768 Filed 9–6–84; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistant

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 September 17, 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 September 17, 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, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 27th day of August 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of)	Location	Date received	Date of petition	Petition No.	Articles produced
Antietam Footwear, Inc. (company)	Hagerstown, MD	8/22/84	8/20/84	TA–W–15,433	Footwear.
Bath Iron Works Corp. (IUMSWA)	Bath, ME	8/22/84	8/16/84	TA–W–15,434	Ships, commercial, Navy, repair, overall new construction.
Brown Shoe Co., plant AA (wrkrs)	Booneville, MS	8/22/84	8/20/84	TA–W–15,435	Shoes, women's dress.
Casey Mfg. Co. (company)	Casey, IL	8/21/84	8/17/84	TA–W–15,436	Shoes, children's & infants.
Cowden Mena Co. (workers)	Mena, Ark	8/15/84	8/13/84	TA–W–15,437	Jeans, blue, denium—men & women.
Ettelbrick Shoe Co. (company)	Greenup, IL	8/22/84	8/13/84	TA–W–15,438	Shoes, children's.
F.M. Weaver, Inc. (USWA)	Lansdale, PA	8/20/84	8/16/84	TA–W–15,439	Beams, structural.
Greenup Mfg Co. (company)	Greenup, IL	8/22/84	8/13/84	TA–W–15,440	Shoes—children's & infants.
Gorham China, Div. of Textron (wrkrs)	San Dimas, CA	8/22/84	8/17/84	TA–W–15,441	China—dinnerware & other items.
International Hat Co. (workers)	Oran, MO	8/22/84	8/15/84	TA–W–15,442	Visors, tennis, hats, painters, cloth.
Margee Sportswear, Inc. (workers)	Miami, FL	8/22/84	8/16/84	TA–W–15,443	Sportswear, tennis.
Noyo Pride, Inc. (company)	Fort Bragg, CA	8/20/84	8/15/84	TA–W–15,444	Fish—fillets, dress, process.
Robinson Mfg Co. (company)	Robinson, IL	8/21/84	8/17/84	TA–W–15,445	Shoes, children's.
CMS Shoes (company)	Greenup, IL	8/21/84	8/17/84	TA–W–15,446	Corporate offices.

[FR Doc. 84–2376 Filed 9–6–84; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-15,381]

General Motors Corp., General Motors Assembly Division, Fremont, CA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 16, 1984 in response to a worker petition received on June 22, 1984 which was filed on behalf of office workers engaged in closing down office operations at the Fremont, California plant of General Motors Assembly Division, General Motors Corporation.

The petitioning of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-15,328). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 22nd day of August 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-23764 Filed 9-6-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,377]

Trojan Luggage Co.; East Bodley Street; Memphis, TN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was intitiated on June 29, 1984 in response to a petition received on June 25, 1984 which was filed by the United Furniture Workers of America Local 282, on behalf of workers producing footlockers at the East Bodley Street facility of Trojan Luggage Company, Memphis, Tennessee.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 29th day of August 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-23765 Filed 9-6-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15.234, et al]

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Pybus Steel Co., 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 August 20, 1984–August 24, 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 competive 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, 234; Pybus Steel Co., Wenatchee, WA

TA-W-15, 288; Columbia Match Co., Cleveland, OH

The investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15, 255; Maryland Shipbuilding & Drydock Co., Baltimore, MD

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-15,301; United States Steel Corp., South Plant, Chicago, IL

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm or subdivision did not decrease as equired for certification.

TA-W-15,352; Chem-Fleur International, Newark, NJ

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

TA-W-15,254; General Electric Indicating Devices, Inc., Caguas, PR

Employment declines resulting from the transfer of production to a foreign firm have not yet occurred.

TA-W-15,339; National Steel Corp., Great Lakes Steel Div., Ecorse, MI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

TA-W-15,262; Bucyrus-Erie Co. (Foundry), South Milwaukee, WI

The affiliated plant that used the castings has replaced them with castings produced at other domestic foundries.

Affirmative Determinations

TA-W-15,268; M & E Sportswear, New York, NY

A certification was issued covering all workers separated on or after February 29, 1983 and before April 15, 1983.

TA-W-15,297; Bethlehem Steel Corp., Buffalo Tank Div., Buffalo NY

A certification was issued covering all workers separated on or after April 5, 1983 and before June 30, 1984.

TA-W-15,272; Scotts Run Manufacturing Co., Radford, VA

A certification was issued covering all workers separated on or after January 1, 1984 and before April 30, 1984.

TA-W-15,407; Weyerhaeuser Co., Columbia River Lumber Corp., Longview, WA

A certification was issued covering all workers separated on or after July 24, 1983.

TA-W-15,232; Hubler Shoe Co., Division Miller, Hess & Co., Auburn, PA

A certification was issued covering all workers separated on or after October 1, 1983 and before February 1, 1984.

TA-W-15,217; Worthington Division, McGraw-Edison Co., East Orange, NJ

A certification was issued covering all workers separated on or after February 14, 1983.

TA-W-15,271; Reed & Barton Corp., Taunton, MA

A certification was issued covering all workers engaged in employment related to the production of flatware and jewelry/gift items separated on or after January 1, 1984 and all workers engaged in employment related to the production or sterling silver or silver-plated holloware separated on or after March 13, 1983.

TA-W-15,295; American Watch Case Corp., Providence, RI

A certification was issued covering all workers separated on or after April 6, 1983.

TA-W-15,275; Utica Cutlery Co., New York Mills, NY

A certification was issued covering all workers separated on or after March 14, 1983.

TA–W–15,276; Utica Cutlery Co., Utica, NY

A certifications was issued covering all workers separated on or after March 14, 1983.

TA–W–15,305; G.H. Bass & Co., Berlin, NH

A certification was issued covering all workers separated on or after February 29, 1984.

TA–W–15,280; International Shoe Co., Salem, MO

A certification was issued covering all workers separated on or after March 19, 1983.

TA–W–15,260; American Hoist & Derrick Co., Mobile Crane Div., Fort Wayne, IN

A certification was issued covering all workers separated on or after March 12, 1983 and before June 30, 1984.

TA–W–15,281; Penn-Tran Corp. Wingate, PA

A certification was issued covering all workers separated on or after March 21, 1983.

TA–W–15,394; UMETCO Minerals Corp., Uravan Mill, Uravan, Co

A certification was issued covering all workers separated on or after May 16, 1983.

TA–W–15,395; UMETCO Minerals Corp., Uravan Mines, Uravan Co

A certification was issued covering all workers separated on or after May 16, 1983.

TA–W–15,396; UMETCO Minerals Corp., La Sal Mines, La Sal, UT

A certification was issued covering all workers separated on or after May 16, 1983.

TA–W–15,397; UMETCO Minerals Corp., Gas Hills Mill, Gas Hills, WY

A certification was issued covering all workers separated on or after May 16, 1983.

TA–W–15,398; UMETCO Minerals Corp., Gas Hills Mines, Gas Hills, WY

A certification was issued covering all workers separated on or after May 16, 1983.

TA–W–15,399; UMETCO Minerals Corp., Rifle Mill, Rifle, Co

A certification was issued covering all workers separated on or after May 16, 1983.

TA–W–15,258; Xerox Corp., Reprographics Group, Washington Central Refurbishing Carter, Springfield, VA

A certification was issued covering all workers at the Washington Central Refurbishing Center, Springfield, VA separated on or after January 1, 1984.

TA–W–15,259; Xerox Corp., Reprographics Group, Washington Regional Distribution Center, Springfield, VA

A certification was issued covering all workers of the Equipment Logistics Center of the Washington Regional Distribution Center, Springfield, VA separated on or after January 1, 1984.

I hereby certify that the aforementioned determinations were issued during the period August 20, 1984 p August 24, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 28, 1984.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-23763 Filed 9-6-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Technical Review Committee for Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Technical Review Committee for Advanced Scientific Computing.

Date and Time: Friday and Saturday, September 21 and 22, 1984 from 9:00 a.m. to 5:00 p.m.

Place: Room 520, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Lawrence Lee, Program Director for Supercomputing Centers, Room 510, Telephone: (202) 357–9717.

Purpose of Committee: To review proposals received in response to a Project Solicitation for Advanced Scientific Computing Resources.

Agenda: To review and evaluate research proposals as one of four parts of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

August 31, 1984.

M.R. Winkler,

Committee Management Coordinator.

[FR Doc. 84-23645 Filed 9-6-84; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports and Recommendations

Reports Issued

Aircraft Accident Report—Midair Collision, McDonnell Douglas F–4C/Beech D–55 Baron, Cherry Point, North Carolina, January 9, 1983 (NTSB/AAR–84/07) (NTIS Order No. PB84–910407).

Highway Accident Report—Trailways Lines, Inc., Bus/E.A. Holder, Inc., Truck, Rear End Collision and Bus Run-Off-Bridge, U.S. Route 59, near Livingston, Texas, November 30, 1983 (NTSB/HAR–84/04) (NTIS Order No. PB84–916204).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations To

Aviation—*Department of Transportation: Aug. 15: A–84–96:* Review the existing research and literature in this area and institute research to: (1) determine the potential effects of both licit and illicit drugs, especially marijuana, in both therapeutic and abnormal levels, on human performance; (2) obtain correlations between toxicological findings of drug levels and blood, urine, and other specimens and various behavioral measurements; and (3) assess the effects of various drugs on the specific tasks performed by the operator in all transportation modes.

Highway—*Federal Highway Administration: Aug. 8: H–84–59:* Issue an "On-Guard" notice to carriers and drivers advising them of the circumstances of the bus accident near Livingston, Texas, on November 30, 1983, and of the research findings of the

Bureau of Motor Carrier Safety on fatigue and the degradation of driver performance and alertness during early morning hours. *H–84–60:* Determine practical methods and means to prevent or minimize dozing at the wheel by drivers of carriers in interstate commerce, and advise the Safety Board of its findings. *Aug. 29: H–84–66:* Issue an On Guard Bulletin alerting motor carriers of the hazards of railroad/highway grade crossings with high surface hump profiles. *H–84–67:* Provide each Bureau of Motor Carrier Safety division office with access to the automated management information system (MIS) to facilitate identification of all motor carriers engaged in interstate commerce in their respective jurisdictions. *H–84–68:* Develop additional information sources through which motor carriers engaged in interstate commerce can be identified and placed expeditiously into the automated management information system (MIS).

Trailways Lines, Inc.: Aug. 8: H–84–61: Regularly monitor the compliance of Trailways Lines, Inc., busdrivers with posted speed limits, and take corrective action as necessary to enforce the stated policy of the company that all drivers comply with posted speed limits. *H–84–62:* Regularly monitor the compliance of Trailways Lines, Inc., busdrivers with seatbelt use requirements, and take corrective action as necessary to enforce the stated policy of the company that all drivers comply with Federal regulations requiring the use of seatbelts. *H–84–63:* Determine practical methods and means to prevent or minimize dozing at the wheel by drivers employed by Trailways Lines, Inc., and advise the Safety Board of its findings.

Texas State Department of Highways and Public Transportation: Aug. 8: H–84–64: As part of any major pavement improvement project, provide, wherever feasible, for the lengthening of marked acceleration and deceleration lanes that do not meet recommended design standards of the American Association of State Highway and Transportation Officials. *H–84–65:* As part of any major pavement improvement project, provide wherever feasible for the installation of advanced barrier systems on and approaching bridges in the State of Texas.

American Association of State Highway and Transportation Officials: Aug. 29: H–84–69: Review the State safety program dealing with hazardous grade crossing profile conditions now underway in Florida, and promote the adoption within each State of this program or a comparable program developed by an appropriate AASHTO committee.

Marine—*U.S. Coast Guard: Aug. 23: M–84–24:* Require passenger vessels subject to 46 CFR Subchapter H and small passenger vessels subject to 46 CFR Subchapter T which carry more than 150 passengers, engaged in coastwise, bays, sounds, or offshore service on extended routes, to be equipped with a gyrostabilized radar suitable for rapid plotting of radar contacts and for navigation. *M–84–25:* Require that passenger vessels with more than one passenger deck have installed an adequate loudspeaker system suitable for announcing passenger advisories, instructions, and emergency alerts from the navigation bridge. *M–84–26:* Require that passenger vessels subject to 46 CFR Subchapter H incorporate in Station Bills the details of actions to be taken by the crew to prepare the passengers for various shipboard emergency conditions. *M–84–27:* Require that all passenger vessels post conspicuously in passenger spaces passenger safety bills or equivalent instructions for emergencies. Written in language understandable to nonmariners. *M–84–28:* Require operators of all passenger vessels in coastwise, bays, sounds, or offshore service on extended routes to prepare an accurate list or count of embarked passengers, including non-revenue adults and children, and to have the list or count reported or delivered to a place ashore prior to a vessel's departure. *M–84–29:* Reevaluate 46 CFR 75.10–20(a) to determine whether the primary lifesaving equipment required is adequate to safely support the entire crew and maximum embarked passengers in the water pending arrival of search and rescue assistance and amend the regulations, as necessary, to eliminate deficiencies in prescribed primary lifesaving equipment.

Pipeline—*Washington Gas Light Company: Aug. 23: P–84–31:* Develop written procedures detailing the sequence of actions to be taken for safely bypassing gas facilities, for isolating segments of pipeline from gas under pressure, and for testing the adequacy of isolation actions before any work is performed on the isolated segment. Incorporate within these procedures requirements for conducting prework meetings to explain the work to be performed by each employee. *P–84–32:* Assess departmental training activity to identify improvements necessary to adequately prepare employees to carry out safely all assigned responsibilities, correct deficiencies found, and evaluate the appropriateness of the policy which makes employee training a departmental responsibility rather than an integrated company activity. *P–84–33:* Require that a supervisor trained in the company procedures for the work being conducted be present to direct all operations which, through employee error, would pose substantial threats to the safety of employees or the public. *P–84–34:* Develop and implement the use of checklists of all work projects in which actions must be taken in an ordered sequence to avert safety hazards.

American Gas Association, the American Public Gas Association, and the Interstate Natural Gas Association of America: Aug. 24: P–84–35: Advise its member companies of the circumstances of the pipeline accident on October 13, 1983, and urge them to include within their written procedures the sequence of steps to be taken for safely isolating segments of gas facilities from gas under pressure and for testing the adequacy of the isolation action before other work is performed on the isolated segment.

American Society of Mechanical Engineers Gas Piping Standards Committee: Aug. 23: P–84–36: Develop and issue guidelines for safely bypassing and isolating segments of pipelines or control equipment from gas under pressure.

Railroad—*Association of American Railroads: Aug. 29: R–84–35:* Establish the specifications stated in Section 1.2, "Profile and Alignment of Crossings and Approaches," of the "Manual for Railway Engineering" of the American Railway Engineering Association as the minimum acceptable specifications for railroad/highway grade crossings for compliance by all member railroads. *R–84–36:* Encourage all member railroads to participate fully with local and State governments in all efforts to assure the integrity of the profiles at railroad/highway grade crossings.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page ($1 million charge.)

Dated: September 4, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84–23858 Filed 9–6–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Certificate of Compliance Nos. 5957, 6346, 5926, 9044, 5971, 5980, 6003, 9781, 9103, 5607, 9132; Docket Nos. 71-5957, 71-6346, 71-5926, 71-9044, 71-5971, 71-5980, 71-6003, 71-9781, 71-9103, 71-5607, 71-9132]

Spent Fuel Shipping Casks; Request for Action Under 10 CFR 2.206

By petition dated July 30, 1984, Mr. Lindsay Audin requested that certain actions be taken with respect to spent fuel shipping casks. The petitioner requests that limitations to inert casks or "can" failed fuel be placed on research and submarine reactor spent fuel casks and that certain accident scenarios involving spent fuel casks be reanalyzed and appropriate action taken based on the results. As provided under 10 CFR 2.206, appropriate action will be taken on the petition within a reasonable time. Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555.

Dated at Silver Spring, Maryland, this 31st day of August 1984.

For the Nuclear Regulatory Commission.

Donald B. Mausshardt,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 84-23737 Filed 9-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station); Order Confirming Licensee Commitments on Pipe Crack Related Issues

I

The Vermont Yankee Nuclear Power Corporation (VYNPC or the licensee) is the holder of Facility Operating License No. DPR-28 which authorizes operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee or the facility) at steady state reactor power levels not in excess of 1593 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Windham County, Vermont.

II

During the 1984 refueling outage at Vermont Yankee, augmented inservice inspection was performed on the recirculation and residual heat removal system piping. The original sample size, in accordance with Generic Letter 84-11, covered 55 welds and was expanded to 69 welds after ultrasonic indications were reported on welds in the original sampling. Welds most likely to crack were selected for inspection. Overall, a total of 17 welds were found to show reportable linear indications.

One defective weld containing a short axial crack was repaired by weld overlay. Five welds reported to be cracked during the last refueling outage were determined to be not cracked by using advanced ultrasonic testing methods. The 17 previously overlay repaired welds were reexamined and the results of the reexamination showed that the structural and bond integrity of these overlays was maintained. The cracks in the 16 unrepaired defective welds were relatively shallow (12-27% of wall thickness). Crack growth calculations based on fracture mechanics analysis have shown that the cracks in the unrepaired defective welds will not grow to a size beyond the limits based on limit-load analysis during the next 12-month fuel cycle.

The staff reviewed the licensee's submittals and performed its own independent evaluations. The staff's review included the ultrasonic examination results, and the weld overlay design and the flaw evaluation to support the continuing service for one fuel cycle of 23 overlay repaired welds and 16 unrepaired defective welds. The staff also reviewed the personnel qualifications, test methods and equipment used in the inspection, and concluded that the licensee has used experienced personnel to perform the examination of the clad weld metal, and that the examinations performed by the licensee could detect lack of clad bond and could identify flaws in the clad weld metal that would affect the structural integrity of the clad overlay.

The staff, therefore, concluded on the basis of the results of the IGSCC inspection and repairs that the Vermont Yankee plant could be safely returned to operation for a 12-month fuel cycle of operation.

III

Although the conservative calculations performed by the licensee and reviewed by the staff indicate that the cracks will not progress to the point of leakage during the next fuel cycle, and very wide margins are expected to be maintained over crack growth which could compromise safety, some redisual uncertainties in the identification of cracks and in crack sizing and growth rate still remain.

Because of these uncertainties, we have determined that Technical Specification monitoring requirements in the containment for unidentified leakage should be modified to reflect new limiting conditions for operation and surveillance requirements. These enhanced surveillance measures will provide adequate assurance that possible cracks in pipes will be detected before growing to a size that will compromise the safety of the plant

In order to provide additional assurance that leakage from the eight uninspected 28-inch recirculation pipe welds will be promptly identified, the licensee will install six local leakage detectors (moisture sensitive tapes), to monitor the potential leakage from these locations, and to inform the NRC promptly of any significant changes in the moisture sensitive tape status.

By letter dated March 13, 1984, the licensee expressed its intent to replace, during the 1985 outage, piping susceptible to intergranular stress corrosion cracking (IGSCC). Because the staff acceptance of the repairs was based on consideration of only a single additional cycle of operation, (See Staff Safety Evaluation, dated Aughst 28, 1984) the staff concluded that 1985 piping replacement should be a firm commitment.

By letters dated July 30, 1984 and July 31, 1984, the licensee committed to the above described conditions on leakage monitoring, notification of changed moisture sensitive tape status, which will provide substantial assurance of prompt detection of leakage, and to 1985 piping replacement. I have determined that the public health, safety and interest require that the licensee's commitments be formalized by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

1. The licensee shall operate the reactor in accordance with requirements on coolant leakage in Attachment A in lieu of the present requirements in Section 3.6.C of the Technical Specifications.

2. The licensee will orally notify the NRC Project Manager before the close of the next working day in the case of any significant changes in the status of the moisture sensitive tape.

3. The Vermont Yankee facility will remain shutdown following the current 12-month fuel cycle until the reactor recirculation and residual heat removal system stainless steel piping are replaced.

V

The licensee, or any other adversely affectred person, may request a hearing within twenty days of the date of publication of this Order in the Federal Register. A request of hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 28th day of August, 1984.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Note.—Vermont Yankee Reactor Coolant Leakage Limits is available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Local Public Document Room located at Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

[FR Doc. 84-23732 Filed 9-6-84; 845 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-219, 50-289, 50-320]

General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Units 1 and 2, Oyster Creek Nuclear Generating Station); Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by Petition dated August 13, 1984, as supplemented August 22, 1984, Three Mile Island Alert, Inc., and other requested that an order be issued revoking the operating licenses of the General Public Utilities Nuclear Corporation for Three Mile Island Nuclear Station Units 1 and 2 and for the Oyster Creek Nuclear Generating Station. As the basis for the Petition, the Petitioners allege a number of factual circumstances which they believe demonstrate that general Public Utilities Nuclear Corporation lacks the requisite charactoer to safely operate a nuclear reactor. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by § 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and in the local public document room for the Three Mile Island Nuclear Station located in the Government Publications Section of the State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126, and for the Oyster Creek Facility located at 101 Washington Street, Toms River, New Jersey 08653.

Dated at Bethesda, Maryland, this 31st day of August 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-23738 Filed 9-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Grand Gulf Nuclear Station, Unit 1; Issuance of Amendment to Facility Operating License

On June 16, 1982, the U.S. Nuclear Regulatory Commission (the Commission) issued Facility Operating License No. NPF-13 to the Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees) authorizing operation of the Grand Nuclear Station, Unit 1 (the facility) at reactor core power levels not in excess of 191 megawatts thermal (five percent of full power) in accordance with the provisions of the license, the Technical Specifications and the Environmental Protection Plan.

The Commission has now issued Amendment No. 13 to Facility Operating License No. NPF-13 which authorizes operation of the Grand Gulf Nuclear Station, Unit 1, at reactor core power levels not in excess of 3833 megawatts thermal in accordance with the provisions of the amended liecense. As part of this authorization, the amendment also changes the license conditions related to dynamic testing, dynamic qualification, environmental qualifications, inservice inspections program, containment purge, interplant communication systems, reliability of diesel generators, advisor to Vice President, partial feedwater heating, control room design review, post accident sampling, hydrogen control, and modification of automatic depressurization system logic. Further, the amendment adds license conditions relating to qualification of ADS accumulators, emergency response facilities, evaluation of Technical Specification problem sheets, control room leak rate, and antitrust. The amendment is effective as of the date of issuance.

The Grand Gulf Nuclear Station, Unit 1, is a boiling water reactor located at the licensees' site in Claiborne County, Mississippi.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and Commission's regulations in 10 CFR Chapter 1, which are set forth in the amended license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on July 28, 1978 (43 FR 32903). The increase in power level authorized by this amendment and the conditions contained therein are encompassed by that prior notice.

The Commission has determined that the issuance of this amendment will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

In a related action the staff has granted exemptions to Appendix A (General Design Criterion 17) and Appendix J to 10 CFR Part 50.

For further details in respect to this action, see (1) Amendment No. 13 to License NPF-13; (2) the Commission's Safety Evaluation Report, dated September 1981 (NUREG-0831), and Supplements 1 through 6; (3) the Final Safety Analysis Report and Amendments thereto; (4) the Final Environmental Statement, dated September 1981 (NUREG-0777); (5) the Evaluation of the Effect of License Duration on Matters Discussed in the Final Environmental Statement for the Grand Gulf Nuclear Station Units 1 and 2 (dated September 1981); (6) Exemption to Appendices A and J to 10 CFR Part 50 dated August 31, 1984; and (7) the Commission's Memorandum dated August 1, 1984.

These items are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the George McLendon Library, Hinds Junior College, Raymond, Mississippi 39154. A copy of Amendment No. 13 to Facility Operating

License NPF–13 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements (NUREG–0831) and the Final Environmental Statement (NUREG–0777) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders may call (301) 492–9530.

Dated at Bethesda, Maryland, this 31st day of August 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84–23734 Filed 9–6–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–416]

Mississippi Power & Light Co., et al. (Grand Gulf Nuclear Station, Unit 1); Exemptions for Full Power Operation

I

Mississippi Power & Light Company (MP&L), Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensee) are the holders of Facility Operating License No. NPF–13, which authorizes the operation of the Grand Gulf Nuclear Station, Unit 1 (the facility) at steady state reactor power levels not in excess of 191 megawatts thermal. The facility consists of a boiling water reactor (BWR/6) with a Mark III containment located in Claiborne County, Mississippi.

II

A. Appendix J—Containment Airlock Testing

Testing of primary reactor containment leakage at Grand Gulf, Unit 1, is required by Appendix J, 10 CFR Part 50 and by the plant's Technical Specifications. Paragraph III.D.2(b) of Appendix J details three explicit airlock testing requirements which are to be included in the Technical Specifications.

Paragraph III.D. 2(b)(ii) of Appendix J requires that airlocks opened during periods when containment integrity is not required by the plant's Technical Specifications shall be tested at the end of such periods at not less than the peak containment internal accident pressure, P_a. Technical Specification 4.6.1.3.b.2 requires only that an overall airlock leakage test be conducted at P_a when maintenance has been performed on the airlock that could affect the airlock sealing capability. Thus, this specification does not fully comply with the testing specified in Appendix J.

The other two explicit airlock tests required by paragraph III.D.2(b) of Appendix J are met by the licensee. Paragraph III.D.2.(b)(i) requires that containment airlocks be demonstrated operable by conducting a leak test every 6 months when containment integrity is required by pressurizing the interior of the airlock to P_a (the calculated peak containment internal pressure under design basis accident conditions, 11.5 psig for Grand Gulf) and verifying the leakage rate is within its limit. Technical Specification 4.6.1.3.b.1 corresponds to and complies with this portion of Appendix J. Paragraph III.D.2(b)(iii) requires an airlock test within 3 days after the airlock has been opened (or at least once every 3 days for openings more frequently than every 3 days) and specifies that an airlock seal test fulfills the 3 day test requirements. Technical Specification 4.6.1.3.a corresponds to and complies with this portion of Appendix J.

By letters dated July 28 and August 7, 1984, the licensee requested an exemption from paragraph III.D.2(b)(ii) of Appendix J for the operating term of the plant. The licensee provided information to support the request and concludes that it is advantageous to allow operation of the plant without performing the full pressure test required by paragraph III.D.2(b)(ii) because the testing would extend the duration of plant outages by half a day or more several times a year.

The staff has evaluated the licensee's requested exemption from paragraph III.D.2(b)(ii). Whenever the plant is in cold shutdown (Mode 4) or refueling (Mode 5), containment integrity is not required. However, if an airlock is opened during Modes 4 and 5, paragraph III.D.2(b)(ii) of Appendix J requires that an overall airlock leakage test at not less than P_a be conducted prior to plant heatup and startup (i.e., entering Mode 3). The existing airlock doors are so designed that a full pressure test, i.e., P_a (11.5 psig), of an entire airlock can only be performed after strong backs (structural bracing) have been installed on the inner door. Strong backs are needed since the pressure exerted on the inner door during the test is in a direction opposite to the accident pressure.

If the periodic 6-month test of paragraph III.D.2(b)(i) and the test required by paragraph III.D.2(b)(iii) are current, no maintenance has been performed on the airlock and the airlock is properly sealed, there should be no reason to expect the airlock to leak excessively just because it has been opened in Mode 4 or Mode 5.

However, the staff also concludes that to assure the airlock is properly sealed, the licensee shall substitute a seal leakage test which satisfies the requirements of paragraph III.D.2(b)(iii) of Appendix J for the full pressure test of paragraph III.D.2(b)(ii) before entering Mode 3 if the door has been opened while in Mode 4 or 5, provided no maintenance has been performed on an airlock that has been opened in Mode 4 or Mode 5. Whenever maintenance has been performed on an airlock, the requirements of paragraph III.D.2(b)(ii) shall be met by the licensee. Therefore, under the foregoing conditions, an exemption from the requirements of paragraph III.D.2(b)(ii) of Appendix J following normal door opening, is justified and acceptable for Grand Gulf, Unit 1.

B. GDC 17, Diesel Engine/Generator Electrical Protection Systems

The requirements for the onsite electric power supply system are specified in GDC–17 of Appendix A, 10 CFR 50. This requires, in part, that these systems shall have sufficient independence, redundancy and testability to perform their safety functions assuming a single failure. GDC–17 further requires that the onsite electric power system, without benefit of the offsite system, provide sufficient capacity and capability to assure that certain specified vital functions are maintained in the event of postulated accidents. The onsite power system at Grand Gulf includes three separate diesel generators designated as supplying power for Division 1, 2 and 3 emergency busses. Three components of the diesel engines at Grand Gulf, Unit 1, do not fully comply with the requirements of GDC–17. These are: (1) The emergency override of the test mode for the Division 3 (High Pressure Core Spray System (HPCS)) diesel engine, (2) the second level of undervoltage protection for the Division 3 (HPCS) diesel engine and (3) the generator ground overcurrent trip function for the Division 1 and 2 (Standby) diesel generators. These will be discussed separately in the subsequent sections.

(1) Division 3 (HPCS) Emergency Generator Test Mode Emergency Override

The diesel generator design is required to include an emergency override of the test mode permit response to bona fide emergency signals and to return the control of the diesel generator to the emergency standby mode. The emergency override feature required to assure availability of the diesel generators should a LOCA signal occur during the periodic testing. This has its basis in the requirements of GDC–17 for redundant available onsite emergency power sources for postulated accidents. The licensee did not provide this design feature on the Division 3 (HPCS) diesel generator. The licensee has committed to provide this design feature for the Division 3 diesel generator at the first refueling outage.

In the interim, by letters dated July 28 and August 2 and 7, 1984, the licensee requested a partial exemption from GDC–17 permitting it to defer meeting the reliability requirements for the Division 3 (HPCS) diesel generator test mode emergency override until startup following the first refueling outage. The licensee provided the following information to support the request.

The design of Division 3 does not incorporate the test mode emergency override feature. Division 3 is dedicated soley to the HPCS system, 90% of the load from which is consumed by the HPCS motor. In the event of an ECCS actuation signal coincident with a loss of the preferred power source, the Division 3 diesel generator would start and accelerate to rated voltage and frequency, tie to the bus, and accept the entire HPCS load at once by block sequencing (the diesel generator would then be in isochronous mode). If the diesel generator were tied to the bus in parallel with the preferred source (droop mode) when these events occurred, the diesel generator would still respond as required.

The HPCS pump is a high pressure system required for reactor coolant makeup for small break loss of coolant accidents (LOCA) where reactor pressure is maintained. The licensee indicates in the submittals that substantial protective features currently exist for Division 3 diesel generator protection. The likelihood of a small break LOCA coincident with loss of offsite power and failure of the Division 3 diesel generator due to a lack of these additional protective features during the first cycle of operation is extremely small. If the HPCS system should fail (due to a postulated single failure or due to a failure associated with a lack of the additional protective features), the RCIC system is available for such small breaks to provide high pressure core makeup and, if necessary, the automatic depressurization system would reduce reactor pressure to allow the low pressure Emergency Core Cooling System to provide makeup. Therefore, the licensee believes this exemption can be granted without endangering life and property.

(2) Division 3 (HPCS) Diesel Generator Undervoltage Protection

The Division 3 power supply which provides power for the High Pressure Core Spray System (HPCS) is required to have two levels of undervoltage protection similar to the Division 1 and 2 power supplies. The second level of undervoltage protection (degraded voltage) is to assure protection against degraded offsite power to prevent damage to safety related equipment and to assure quality power by switching to diesel generator under degraded offsite power conditions. The basis for this level of undervoltage protection is derived from the requirement of GDC–17 that the onsite power systems have adequate capacity and capability to provide power for systems necessary to accommodate postulated events.

In the as-built design for the Division 3 bus, only one level of protection is provided (loss of voltage at 72%); degraded voltage protection is not provided. The licensee has committed to provide the second level undervoltage protection for Division 3 by the first refueling outage.

In the interim, by letters dated July 28, and August 2 and 7, 1984, the licensee requested a partial exemption from GDC–17 permitting it to defer meeting the reliability requirement for the Division 3 (HPCS) diesel generator undervoltage protection until startup following the first refueling outage. To support the request the licensee states that, although Grand Gulf is equipped with a third division of electrical power, Division 3 is dedicated to the High Pressure Core Spray (HPCS) System. The HPCS motor and all HPCS auxiliaries, except motor operated valves (MOVs), have overcurrent protection which will prevent damage from persistent undervoltage. The MOVs have a minimum 75% voltage operating capability by design specification. Considering design margin that is typically included, the licensee believes MOV operation in the 72% to 75% voltage range will occur with a high degree of confidence. The licensee further considers the likelihood of the undervoltage being between 72% and 75% for a period long enough to damage the valve motors extremely small.

The licensee states that the only other equipment connected to the Division 3 bus that will be adversely affected by undervoltage is the Division 3 battery charger which is affected at less than 85% of nominal voltage. The Division 3 batteries will handle the DC load for at least four hours which the licensee believes will provide ample time to recognize undervoltage conditions.

The HPCS pump is a high pressure system required for reactor coolant makeup for small LOCA where reactor pressure is maintained. The licensee indicates in the submittals that substantial protective features currently exist for Division 3 diesel generator protection. In addition, the likelihood of a small break LOCA coincident with loss of offsite power and failure of the Division 3 diesel generator due to a lack of these additional protective features during the first cycle of operation is extremely small. If the HPCS system should fail (due to a postulated single failure or due to a failure associated with a lack of the additional protective features), the RCIC system is available for such small breaks to provide high pressure core makeup and, if necessary, the automatic depressurization system would reduce reactor pressure to allow the low pressure Emergency Core Cooling Systems to provide makeup. Therefore, the licensee concludes this exemption can be granted without endangering life and property.

The staff has evaluated the consequences of deferring the implementation of this design feature for the first operating cycle. The staff finds that there is little likelihood of a degraded grid event requiring the HPCS concurrent with a single failure of one of the other diesel generators and a failure of the operator to take action to trip the offsite breaker to the HPCS bus manually (which allows the HPCS diesel generator to start and load) during the first operating cycle. The staff thus concludes that the lack of second level (degraded grid) undervoltage protection does not represent a significant hazard to the health and safety of the public over the first operating cycle. Therefore, until startup following the first refueling outage, the requested exemption from GDC–17 should be granted.

(3) Standby Diesel Generator Trip Functions

All diesel generator protective trips are arequired to be bypassed except for diesel engine overspeed and generator differential current. Any other trips retained must utilize coincident logic in

order to avoid spurious trips. The basis for this feature is derived from the GDC-17 requirement to minimize loss of emergency power concurrent with loss of offsite power. Bypassing diesel generator trips which are comparatively of lesser importance than the functioning of the emergency power source under accident conditions meets this requirement. The Division 1 and 2 (Standby) diesels at Grand Gulf do not have this design feature for generator ground overcurrent that either provides coincident logic or bypases this trip under accident conditions.

The licensee has committed to implement this design change with regard to bypassing or providing coincident logic for the ground overcurrent generator trip. This commitment is to be completed prior to restart following the first refueling outage.

In the interim, by letters dated July 28, and August 2 and 7, 1984, the licensee requested a partial exemption from GDC-17 permitting it to defer meeting the reliability requirements for the Division 1 and 2 (Standby) diesel generator trip functions until startup following the first refueling outage. To support the request, the licensee provided the following information.

The licensee states that the design of the Grand Gulf diesel generator trip system for Division 1 and 2 (Standby) incorporates four trips that remain in effect during emergency operation. They are:

a. Engine overspeed—single channel trip;

b. Generator differential—single channel trip;

c. Generator ground overcurrent—single channel trip; and

d. Low lube oil pressure—(2) out of (3) logic.

The licensee recognizes that the design for Division 1 and 2 diesel generators is not in compliance with the latest version of Regulatory Guide 1.9. Regulatory Guide 1.9 allows only engine overspeed and generator differential current trips. All other trips should be addressed in one of two ways: Either, (1) a trip should be implemented with two or more independent measurements for each trip parameter with coincident logic provisions for trip actuation, or (2) a trip should be bypassed under accident conditions. The Grand Gulf design for Division 1 and 2 diesel generators incorporates a generator ground over current trip without coincident logic.

The licensee states that the ground overcurrent trip function responds to slowly developing, relatively low magnitude ground fault conditions whereas the generator differential current trip function responds to fairly high levels of ground current within the differential protective zone. Outside the differential protective zone, ground relays associated with feeder breakers will actuate and isolate the ground overcurrent fault before the generator ground relay actuates. The ESF 4160 to 480 volt transformers are delta-wye and therefore will not pass a low voltage ground fault (less than 5 Kv) to the generator ground overcurrent protective system. The licensee considers the likelihood of a failure of the generator ground overcurrent trip function which would cause a trip of the diesel generator when it is required is small. The licensee also states that the likelihood of such a trip coincident with a loss of offsite power and a loss of coolant accident during the first cycle of operation is extermely small. Therefore, the licensee believes this exemption can be granted without endangering life and property.

The staff has evaluated the consequences of deferring the implementation of this design feature for the first operating cycle. The staff finds that there is little likelihood of a LOCA coincident with the loss of offsite power and both Division 1 and 2 diesel generators to spurious trip on this trip function during the first operating cycle. The staff, thus, concludes that the lack of this feature on diesel generators for Divisions 1 and 2 does not represent a significant hazard to the health and safety of the public over the first operating cycle. Therefore, until startup following the first refueling outage, the requested exemption from GDC-17 should be granted.

The licensee considers the requested exemptions to GDC 17 to be in the public interest in that any delay in commencement of the power ascension program would cause a day-for-day delay in the attainment of commercial operation and as shown above, the health and safety of the public will be adequately protected. Grand Gulf Unit 1 is physically complete in all essential respects and is ready for power ascension to full power. Upon satisfactory completion of the power ascension program in accordance with the license and Technical Specifications, the licensee will place the facility in commercial operation. The requested exemption discussed above is for a limited period. The delay associated with implementing this design change now ranges from several weeks to several months. Thus, the licensee concludes that such delays are unwarranted inasmuch as the public health and safety are adequately protected.

The staff agrees that, because granting the exemptions will not endanger life or property or the common defense and security, the delays that would be encountered to meet the regulation at this time are unwarranted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemptions are authorized by law, will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the exemptions as follows:

A. An exemption is granted from the requirements of Paragraph III.D.2(b)(ii), Appendix J, 10 CFR Part 50, for the containment airlock testing following normal door opening during periods when containment integrity is not required for the term of the operating license, provided that in lieu of the full pressure test required by III.D.2(b)(ii), the licensee shall, before entering operating modes requiring containment integrity, perform a seal leakage test which satisifies the requirements of III.D.2(b)(iii), and provided that no maintenance has been performed on the airlock.

B. Until startup following the first refueling outage, a partial exemption is granted from the requirements of GDC-17, Appendix A, 10 CFR Part 50 for:

(1) The energency override of the test mode for the Division 3 (HPCS) diesel engine,

(2) The second level undervoltage protection for the Division 3 (HPCS) diesel engine, and

(3) The generator ground overcurrent trip function for the Division 1 and 2 (Standby) diesel generators.

These Exemptions are effective upon publication of a finding of no significant impact.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 31st day of August 1984.

Gus C. Lainas,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-23733 Filed 9-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power and Light Co.; Middle South Energy, Inc., South Mississippi Electric Power Association (Grand Gulf Nuclear Station, Unit 1), Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation has denied the Petition filed under 10 CFR 2.206 by the Jacksonians United for Livable Energy Policies regarding the Grand Gulf Nuclear Station, Unit 1 (the facility).

The Petitioner requested that the Nuclear Regulatory Commission issue an order to Mississippi Power and Light Company to show cause why the license for the facility should not be revoked and a stay of operation should not be issued. The Petitioner also requested that the operating license be modified to remove responsible management personnel and ensure implementation and verification of corrective actions associated with techncial specification discrepancies. The Commission has taken actions to resolve these problems and Grand Gulf has taken corrective actions for the identified problems. Because appropriate corrective measures have been initiated, institution of further proceedings to implement these actions is unnecessary.

The reasons for the above conclusions are fully described in a "Director's Decision Under 10 CFR 2.206," dated August 31, 1984 which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 31st day of August 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-237356 Filed 9-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244 OLA (ASLBP No. 79-427-07 OLA)]

Rochester Gas & Electric Corp. (R. E. Ginna Nuclear Plant, Unit No. 1); Memorandum and Order (Terminating Proceeding)

Memorandum

By Memorandum and Order dated May 25, 1984, the Licensing Board directed that discovery commence in the proceeding which had, in effect, been suspended during the lengthy Staff review under the Systematic Evaluation Program. It also directed that the parties file status reports by August 15, 1984 containing their proposed prehearing and hearing schedule. On July 13, 1984, Rochester Gas and Electric Corporation (Applicant) served its first set of interrogatories on the sole intervenor, Michael A. Slade.

By a pleading dated July 24, 1984, Mr. Slade withdrew all of his outstanding contentions in this proceeding. To date, two intervenors have been admitted to this proceeding: Mr. Slade and the Rochester Committee for Scientific Information (RCSI). RCSI subsequently withdrew from the proceeding pursuant to stipulation with Applicant. The withdrawal of RCSI was accepted by the Licensing Board. The State of New York became, and still remains, a participant in this proceeding, but only as an interested State pursuant to 10 CFR 2.715(c). On March 12, 1974, Counsel for the State of New York appeared at the only prehearing conference convened to date and indicated that the State was not intervening in this proceeding with contentions and that the State had no position on the licensing of the plant at that time. The State has filed no contentions since that time. Nor, since Michael Slade's notification to the Board that he intends to withdraw his contentions, has New York State indicated that it wishes to file any.

The withdrawal of the only intervenor removes both the need and the occasion for evidentiary hearings in this proceeding. There are no longer any matters which the parties wish to resolve in this proceeding and, consequently, there is no issue to be heard by the Board.

Dismissal of this proceeding would be consistent with the Commission's requirements which do not contemplate a hearing on a application for an operating license in the absence of any matters in controversy or any request for hearing by interested persons (*see* 10 CFR 2.104, 2.105, 2.714, 50.58(b) and 50.91) and is consistent with the general powers of the presiding officer under 10 CFR 2.718.

Order

For all of the foregoing reasons and based upon the entire record in this proceeding, it is, this 30th day of August, 1984.

Ordered, that this proceeding, begun with the issuance of a notice of opportunity for hearing on December 8, 1972, published at 37 FR 26144, is hereby terminated.

The Atomic Safety and Licensing Board.

Richard F. Cole,

Administrative Judge.

Emmeth A. Luebke,

Administrative Judge.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 84-23736 Filed 9-6-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on September 20 and 21, 1984, in Room 5104, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on September 20, recess and reconvene at 8:00 a.m. on September 21. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The September 20 session and a portion of the September 21 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made

requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456–7740, prior to 3:00 p.m. on September 18. Ms. Boyd is also available to provide further information regarding this meeting.

Dated: August 29, 1984.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 84–23714 Filed 9–6–84; 8:45 am]

BILLING CODE 3170–01–M

White House Science Council; University Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: University Panel of the White House Science Council.

Date & Time: September 20, 1984 from 8:30 a.m. to 12:00 p.m.

Place: Room 5104, New Executive Office Building, Washington, D.C.

Purpose of the Parent Board: To advise the Director, Office of Science and Technology Policy, on science and technology issues.

Tentative Agenda:

- Presentations on education issues by presidents of universities and university associations.
- Presentations on education issues by representatives from the research community.
- Public comment (5 minute rule).

Public Attendance and Participation: The meeting is open to the public. Because of Security in the New Executive Office Building, persons wishing to attend the meeting should notify Annie L. Boyd, Secretary, White House Science Council, at (202) 456–7740, prior to 3:00 p.m. on September 18.

Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Dr. Andrew Pettifor, Office of Science and Technology Policy, NEOB Room 5026, Washington, D.C. 20506, (202) 395–3902. Requests must be received 5 days prior to the meeting. Reasonable provisions will be made to include the presentation on the agenda. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 84–23715 Filed 9–6–84; 8:45 am]

BILLING CODE 3170–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments: Certain Trolley Wheel Assemblies

On August 29, 1984, the United States International Trade Commission referred to the President for review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, and in the sale, of certain trolley wheel assemblies that infringe a United States patent the tendency of which is to injure substantially an efficiently and economically operated United States industry. The Commission directed the U.S. Customs Service to exclude the infringing products from entry into the United States.

Under section 337(g), the President, for policy reasons, may disapprove the Commission's determination within sixty days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The President also may approve the determination, making it, and any order issued under its authority, final on the date the Commission receives notice. The determination and related orders become final automatically following the sixty day review period, if the President has not disapproved.

Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this case. Parties commenting on domestic policy issues should refer to the portion of the Commission's record related to that issue. Parties should provide a rationale if the domestic policy issue was not raised before the Commission.

Comments may not exceed 15 letter-sized pages, including attachments. Twenty copies of the submission must be provided. Comments must be delivered by the close of business, Friday, September 28, 1984, to the Secretary, Trade Policy Staff Committee, 600 17th Street, NW., Washington, D.C. 20506. For further information, call Alice Zalik (202) 395–3432.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 84–23653 Filed 9–6–84; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21282; File No. SR–PSDTC–84–12]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of Pacific Securities Depository Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 24, 1984, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change establishes a 15% surcharge on PSDTC fees beginning September 1, 1984.[1] The surcharge will be applied to all depository charges except participant terminal charges, specialist charges, and dividend interest adjustments.[2] The 15% surcharge will be effective as of September 1, 1984, and will continue indefinitely.

PSDTC states in its filing that the 15% surcharge is intended to offset anticipated losses caused by the overall decrease in trading volume during 1984. PSDTC believes that the proposal is consistent with Section 17A of the Act in that it provides for the equitable allocation of reasonable charges among PSDTC participants.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days for the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

[1] In an attachment to its filing, PSDTC states that the 15% surcharge is not applicable to Pacific Clearing Corporation fees.

[2] The Depository Trust Company ("DTC") implemented a 15% surcharge on its monthly billings to DTC participants. *See* Securities Exchange Act Release No. 21187 (July 31, 1984), 49 FR 31357 (August 6, 1984). In addition, Midwest Securities Trust Company increased certain fees by 15% to pass through to its participants the DTC surcharge. *See* Securities Exchange Act Release No. 21267 (August 23, 1984).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Written comments on the proposal may be submitted within 21 days from the date this notice is published in the Federal Register. Six copies should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to file No. SR–PSDTC–84–12. Copies of all documents relating to the proposed rule change, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room in Washington, D.C. or at PSDTC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–23698 Filed 9–6–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14121 (812–5779)]

Pruco Life Insurance Co., et al.; Application for an Order Exempting Applicants and Approving the Terms of an Exchange Offer

August 31, 1984.

Notice is hereby given that Pruco Life Insurance Company ("Pruco Life"), 213 Washington Street, Newark, New Jersey 07102, on its own behalf and as sponsor and depositor of the Pruco Life Variable Appreciable Account (the "Arizona Account"), Pruco Life Insurance Company of New Jersey ("Pruco Life of New Jersey"), on its own behalf and as sponsor and depositor of the Pruco Life of New Jersey Variable Appreciable Account (the "New Jersey Account"), Pruco Life Series Fund, Inc. (the "Series Fund"), The Prudential Insurance Company of America ("Prudential"), and Pruco Securities Corporation (referred to collectively as "Applicant") filed an application on February 27, 1984, and amendments thereto on June 12, 1984, and August 23, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), requesting exemption from the provisions of section 2(a)(32), 2(a)(35), 12(b), 18(i), 22(c), 26(a)(2), 27(a)(1), 27(c)(1), 27(c)(2), 27(d) and 27(f) of the Act and Rules 6e–2(b)(1), (b)(10), (b)(12), (b)(13), and 12b–1(a)(1), 22c–1 and 27f–1 thereunder, all to the extent indicated below, and, pursuant to section 11 of the Act, approving the terms of an exchange offer. All interested persons are referred to the application on file with the Commission for a statement of the representations of the Applicants, which are summarized below, and are referred to the Act and the rules thereunder for the text of the relevant provisions.

Applicants intend to offer certain variable appreciable life insurance contracts in two forms, designated the Form A contract and the Form B contract. The Form B contract provides for a death benefit and cash value, both of which vary with the investment experience of the Arizona Account or New Jersey Account, as applicable (hereinafter referred to as the "Account" or the "Accounts"), although the death benefit will never be less than a guaranteed minimum amount set forth on the cover page of the contract (the "face amount") if the contract is not in default and there is no contract debt. The Form A contract provides for a death benefit that generally remains fixed in the face amount set forth in the contract and a cash value that varies with the investment experience of the Account. The death benefit of a Form A as well as a Form B contract will vary with investment experience once it becomes paid-up. Under both forms of the contract, the payment of scheduled premium payments guarantees continuation of the face amount of insurance and a contract owner may elect to pay higher than scheduled premiums.

1. Definition of Variable Life Insurance

Applicants request an exemption from Rule 6e–2 to the extent necessary to treat the contract as a "variable life insurance contract" within the definition contained in Rule 6e–2(c)(1). Applicants state that the Form A contract does not meet all the requirements of that definition because, except under limited circumstances, the death benefit will remain fixed in the face amount and will not vary with the investment results of the separate account as Rule 6e–2(c)(1) contemplates. Applicants also state that the Form B contract may not meet the definition because an optional benefit under that contract provides that if the contract lapses because of default, the contract owner may choose, as one of several options, to have the variable life insurance continued in force, but in a reduced amount; and the guarantee that the death benefit which otherwise varies to reflect investment results will not be reduced below a stated amount continues to apply to such reduced amount. Also, under both Form A and Form B contracts, it is possible, under certain circumstances, for a contract owner to fail to make a minimum scheduled premium payment and the contract will not lapse. Applicants point out, however, that Rule 6e–2(c)(1) provides that the required guaranteed minimum death benefit must be provided only "so long as payments are duly paid."

Applicants submit that the considerations which led the Commission to adopt Rule 6e–2 apply equally to the Accounts and the contracts. Under both forms of contract, favorable investment experience emerges in the form of increased values; under Form B, cash values and death benefits increase while under Form A only cash values increase. Applicants contend that, so far as the protection of investors is concerned, both forms of contract are acceptable insurance and investment vehicles, and that satisfactory disclosure will provide the necessary protection. Finally, Applicants represent that the design of the contracts satisfies the definition of life insurance in section 7702 of the Internal Revenue Code.

2. Deferred Sales Load

Applicants request exemption from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rules 6e–2 (b)(1), (b)(12), (b)(13), (c)(4), and 22c–1 thereunder to the extent necessary to permit part of the sales load imposed in connection with the sale of the contracts to be deducted from each premium payment made under the contract and the remainder to be in the form of a contingent deferred sales load to be deducted, to the extent available, from the amount otherwise payable upon surrender, partial surrender, or lapse of the contract. Specifically, the front-end sales load charge will be equal to 5% of each "basic premium." The maximum deferred sales load charge equals 25% of the first year's scheduled premium payments and 5% of the scheduled premium payments for the next four contract years (or 9% of the total scheduled premium payments for the first five contract years).

Applicants state that relief is appropriate because imposition of part of the sales load charge in the form of a contingent deferred charge is, for several reasons, more favorable to the owner than a charge that is deducted entirely from the premium. In this regard, Applicants assert that, among other things, under the deferred load the amount of investors' money available for investment is not reduced as in the case of a front-end sales load, the total amount of sales load charged to any

contractowner under Applicants' proposed sales load structure is lower than that permitted by Rule 6e–2(b)(13), and the sales load structure of the contract provides greater equity between both surrendering and persisting contractowners. Applicants represent that they will inform registered representatives selling the contracts of applicable suitability requirements with respect thereto and that they will, upon request, provide the Commission with statistical information, compiled in the normal course of business, regarding lapses of the contracts during the early policy years.

3. Use of 1980 Commissioner's Standard Ordinary Mortality Table

Applicants also request from section 27(a) and Rule 6e–2(b)(1), (b)(13), (c)(4) on the same terms specified in Rule 6e–2(b)(13) and (c)(4) except that the deduction for the cost of insurance in determining what is deemed to be sales load shall be based upon the 1980 Commissioners' Standard Ordinary Mortality Table ("1980 CSO Table") instead of the 1958 Commissioners' Standard Ordinary Mortality Table ("1958 CSO Table"). Applicants state that Pruco Life and Pruco Life of New Jersey will use the 1980 CSO Table in establishing premium rates and reserve liabilities for the contracts and that it would therefore be appropriate, in determining what sales load is deemed to be charged under these contracts, to base the deduction for cost of insurance on the 1980 CSO Table. Applicants state that, for the most part, the use of the 1980 CSO Table results in higher contract values and lower cost of insurance deductions than the use of the 1958 CSO Table.

4. Contingent Deferred Administrative Charge

Applicants request exemption from sections 2(e)(32), 22(c), 26(a)(2), 27(c)(1), 27(c)(2), and 27(d) and Rules 6e–2 (b)(12), (b)(13) and 22c–1 to the extent necessary to permit an administrative charge for expenses incurred, other than sales expenses, in connection with issuance of a contract to be deducted on a contingent deferred basis upon surrender or lapse of the contract.

Applicants state that Pruco Life and Pruco Life of New Jersey intend to charge $5.00 for each $1,000 of face amount of insurance to compensate for expenses incurred in connection with the issuance of the contract, other than sales expenses. This charge is made to cover the costs of processing applications, conducting medical examinations, determining insurability and the insured's risk class, and establishing records relating to the contract. However, this charge will not be assessed upon issuance of the contract, nor will it be deducted from any death benefit under the contract. Rather, it will be deducted only if the contract is surrendered or lapses when it is in default past its days of grace, and even then it will not be deducted at all for contracts that stay in force on a premium paying or fully paid up basis through the end of the contract's tenth year. The charge will be reduced for contracts that lapse or are surrendered before then but after the contract's fifth anniversary.

Applicants state that imposition of the administrative charge in this form is, for several reasons, more favorable to contractowners than a charge that is deducted entirely from premiums in the first contract year, which is the conventional way of making this charge. First, the amount of the owner's investment in the separate account is not reduced as it is when this charge is taken in full from the first year premium payments. Second, the total amount charged to any contractowner is no greater than if this charge were taken in full in the first contract year, and it is less for contractowners who do not lapse or surrender during the first five contract years. Third, contractowners who lapse or surrender within the first five years, like all others, are advantaged because the cost of insurance charges deducted monthly from the amounts credited to them in the Account will be lower than they would have been had the administrative charge for issuance expenses been deducted in full from premium payments during the first year. Finally, every contractowner receives the primary benefit of the contracts—insurance protection—without incurring this administrative charge prior to surrender or lapse and no such charge is deducted from the death benefit payable under the contracts.

5. Investment Experience During "Free Look" Period

Applicants request exemption from the provisions of section 27(f) of the Act and Rules 6e–2(b)(13)(viii) and 27f–1 on the terms specified in Rule 6e–2(b)(13)(viii) except that the amount payable to the contractowner pursuant to exercise of the short-term cancellation right provided in Rule 6e–2(b)(13)(viii) may be adjusted to reflect appreciation or depreciation in the value of the assets in the Account relating to the contract prior to the date on which the cancelled contract is received by the issuer. Applicants state that it is consistent with the policies of section 27(f) to have the contractowner bear the risk and enjoy the benefit of investment experience during the "free-look" period. In this regard, Applicants note that the fact that Rule 6e–2(b)(13)(viii) requires a return of premium payments is not significant in a context in which, because of scheduled premium payments and high first year charges, the amount invested on behalf of the contractholder is very small. For that reason, the appreciation or depreciation of that amount is not significant. By contrast, under these contracts, larger than scheduled premium payments may be made and there is only a relatively small front-end load. Therefore, material appreciation or depreciation in the contractowner's account could occur during the "free-look" period.

6. Transfers Among Subaccounts

Applicants request an order under section 11 of the Act, to the extent provided by Rule 11a–2(b) for contracts that do not involve both a front-end sales load and deferred sales load, approving transfers of the assets related to the contracts among the various subaccounts of the Accounts. Applicants state that such transfers will be made without charge and that such transfers do not affect a contractowner's cash values.

7. Sale of Series Fund Shares Without an Underwriter

Applicants request exemption from section 12(b) of the Act and Rule 12b–1(a)(1) thereunder to the extent necessary to permit the Series Fund to sell its capital stock to the Accounts without the use of an underwriter, on the condition that Applicants not use the Series Fund's assets for distribution expenses unless the Series Fund complies with Rule 12b–1(b). Applicants state that the only sales of the capital stock of the Series Fund will be to the Accounts and to other separate accounts of Pruco Life and Pruco Life of New Jersey. The stock will be sold at its net asset value without any sales charge or underwriting spread. Pursuant to its investment advisory agreement with the Series Fund, Prudential has agreed to bear all expenses of the Series Fund except for interest, brokerage commissions, taxes, extraordinary expenses, and its investment management fee. Applicants submit that, in view of the foregoing facts, no useful purpose would be served by requiring the Series Fund to use an underwriter for the sale of its capital stock to the Account. Direct sales of the capital stock of the Series Fund to the Account would not expose the Series

Fund to any underwriting risks, since such shares are issued only when requests for their purchase are received from the Accounts. Nor would the direct sales to the Accounts create any expenses for the Series Fund, since Prudential has agreed to bear all the expenses of the Series fund, except for those enumerated above.

8. Partial Withdrawal of Cash Value

Applicants request exemption from sections 2(a)(32), 22(c), 26(a)(2), 27(c)(1), 27(c)(2), 27(d) and Rules 6e–2(b)(12), (13) and 22c–1 to the extent necessary to permit a contractowner, prior to the contract becoming paid-up, to withdraw a portion of his cash surrender value without surrendering the contract, subject to certain conditions and an administrative charge of $15. Applicants assert that relief is appropriate because this withdrawal procedure is a fair and reasonable form of partial redemption and the $15 administrative fee is reasonable in relation to expenses incurred.

9. Conversion of Contract

Applicants request exemption from section 27(d) and Rule 6e–2(b)(13)(v)(B) on the same terms specified in Rule 6e–2(b)(13)(v)(B) except that a contractowner who exercises his right to exchange his contract for a fixed-benefit contract within the first 24 months after issuance will receive a Pruco Life or Pruco Life of New Jersey Appreciable Life contract, a general account universal-life type of policy with guaranteed minimum values, instead of a conventional whole-life policy. Applicants state that the purpose of the conversion right of Rule 6e–2(b)(13)(v)(b) is fully satisfied by Applicants' proposed exchange right since the owner will be able to convent to a policy with guaranteed minimum benefits without providing evidence of current insurability, and the new contract's premium and death benefit will be the same as the original contract's on the date of exchange. The new contract will also have the same issue date and risk classification as the original contract.

10. Voting Rights

Applicants request exemption from sections 18(i) and Rule 6e–2(b)(10) on the same terms provided in Rule 6e–2(b)(10) except that voting rights will be based upon the value of the assets in the account relating to a contractowner's contract rather than the cash surrender value of the contract. Applicants submit that basing voting rights upon the investment amount of a contract is the most appropriate way to allocate voting rights because it reflects the contractowner's participation in the investment experience of the Account, whereas, the cash surrender value is subject to deferred sales and administrative charges upon surrender or lapse within the first 10 contract years. Thus, the investment amount of a contract will often be higher than its cash surrender value.

11. Mortality and Expense Risk Charge

Applicants request exemption from sections 26(a) and 27(c)(2) of the Act and Rule 6e–2 to the extent necessary to impose a charge against the Account for mortality and expense risks equal to an effective annual rate of .60% of the assets of each of the subaccounts of the Accounts. Applicants represent that the charge is reasonable in relation to industry practice with respect to comparable products. Applicants further represent that the data supporting and setting forth this conclusion will be maintained at the home offices of Pruco Life and Pruco Life of New Jersey, and will be available to the Commission. Applicants represent that the explicit sales load charges are designed, to the extent permitted by the Act and Rule 6e–2, to recover the sales and distribution expenses incurred in the sale of the contracts, but that in some cases such charges may be insufficient to cover such expenses. Applicants state that the shortfall, if any, will be made up from the surplus of Pruco Life and Pruco Life of New Jersey, which may include amounts attributable to charges deducted from the assets of the Accounts, including the mortality and expense risk charge. In this connection, Pruco Life and Pruco Life of New Jersey represent that they have concluded that there is a reasonable likelihood that the Accounts' distribution financing arrangement will benefit the Accounts and contractowners and that they will maintain and make available to the Commission upon request a memorandum setting forth the basis for their respective representations. The Accounts represent that they will invest only in open-end management companies which have undertaken to have a board of directors with a disinterested majority formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

12. Other

Finally, Applicants represent in connection with the relief requested that, if Rule 6e–2 is amended, they either will continue to comply with the rule or seek additional appropriate exemptive relief.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request shouold be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–23700 Filed 9–6–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21281; File No. SR–PSDTC–84–11]

Self-Regulatory Organizations; Filing of a Proposed Rule Change and Pilot Project of Pacific Securities Depository Trust Co.

August 31, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 17, 1984, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Recent changes in Municipal Securities Rulemaking Board ("MSRB") rules require certain municipal securities brokers and dealers to use an automated system to confirm and affirm certain municipal securities transactions.[1]

[1] *See* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983), which approved proposed changes to MSRB Rules G–12 and G–15 to establish a two-phased timetable for integrating municipal securities brokers and dealers into the National Clearance and Settlement System. As of August 1, 1984, municipal securities brokers and dealers who are, or whose agents are, registered clearing agency participants must use clearing agency facilities, among other things, to confirm and affirm certain delivery vs. payment or receipt vs. payment

Continued

PSDTC's proposed rule change creates a new membership class, Municipal Comparison Only ("MCO") Participants, for municipal securities brokers and dealers who exclusively want to use PSDTC's National Institutional Delivery ("NID") System [2] for confirmation and affirmation of institutional trades in eligible municipal securities.[3] Only members or MCO participants of Pacific Clearing Corporation ("PCC") [4] may become MCO participants of PSDTC.

Under PSDTC's proposal, all affirmed transactions submitted by MCO participants will be processed on a trade-for-trade basis through the use of receive and deliver tickets. MCO participants would not be entitled to use any other service provided by PSDTC, including PSDTC's book-entry and envelope services. Accordingly, MCO participants must settle their trades outside of PSDTC's facilities, in accordance with applicable MSRB rules.

PSDTC also will not guarantee settlement of affirmed trades submitted by MCO participants. Because this activity poses no financial risk to PSDTC, MCO participants will not be required to contribute to PSDTC's Participants Fund. Nevertheless, PSDTC is reserving the right to subject MCO participants to applicable PSDTC rules, including those relating to financial condition, operational capability, experience, and competency.

PSDTC believes that the proposed rule change is consistent with section 17A(b)(3)(F) of the Act in that it is intended to promote the prompt and accurate clearance and settlement of securities transactions. In addition, PSDTC believes the proposal will facilitate municipal securities broker and dealer compliance with MSRB Rule G–15 which requires automated confirmation and affirmation of certain municipal securities trades.

PSDTC requested accelerated approval of the proposal because of the August 1, 1984 deadline for the use of an automated comparison system by municipal securities brokers and dealers. However, the Commission is not the appropriate regulatory agency ("ARA") for PSDTC under section 3(a)(34) of the Act and, consequently, the Commission is precluded under section 19(b)(4)(A) of the Act from approving PSDTC's proposal on an accelerated basis unless PSDTC's ARA notifies the Commission of its determination that the proposal is consistent with the safeguarding of funds and securities. Such notice has not been received. However, because the Commission seeks to maximize the use of automated clearing agency services for municipal securities and because PSDTC's proposal facilitates the use of such services, the Commission, after consultation with PSDTC's ARA, has authorized PSDTC to implement its proposal on a pilot basis pending final Commission determination.

Written comments on the proposal may be submitted within 21 days from the date this notice is published in the **Federal Register.** Six copies should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to file No. SR–PSDTC–84–11. Copies of all documents relating to the proposed rule change, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room in Washington, D.C. or at PSDTC.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–23699 Filed 9–6–84: 9:45 am]

BILLING CODE 8010–01–M

transactions. Each of those municipal securities brokers and dealers must use those clearing agency facilities if its customers or the customer's agent is a clearing agency participant or participates in a clearing agency linked to a clearing agency providing those services.

[2] *See* Securities Exchange Act Release No. 21264 (August 23, 1984), 49 FR 34321 (August 29, 1984), which approved modifications to PSDTC's NID System to facilitate the automated confirmation, affirmation and settlement of municipal securities transactions. For a description of PSDTC's NID System, *see* Securities Exchange Act Release No. 19437 (January 18, 1983), 48 FR 3441 (January 25, 1983), which approved implementation of the NID System.

[3] PSDTC's proposal is the first MCO program established for automated confirmation and affirmation of municipal securities. Several other registered clearing agencies have implemented MCO programs for the automated comparison of municipal securities. *See* Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984) (National Securities Clearing Corporation) and Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984) (Midwest Clearing Corporation and Pacific Clearing Corporation).

[4] PCC is PSDTC's affiliated clearing corporation. *See* Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984), which authorized PCC to link its automated municipal securities comparison system to National Securities Clearing Corporation's ("NSCC") Municipal Bond Processing System, including its Municipal Bond Comparison Only ("MBCO") program.

[Release No. 21279; File No. SR–DTC–84–3]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change of Depository Trust Co.

August 31, 1984.

The Depository Trust Company ("DTC") on July 11, 1984, submitted a proposed rule change to the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1). Notice of the proposal was published in Securities Exchange Act Release No. 21164 (July 23, 1984), 49 FR 30267 (July 27, 1984). The Commission received no letters of comment on the proposal.

DTC's proposal is one of several recent proposed rule changes designed to facilitate access to a National Securities Clearing Corporation ("NSCC") system that provides centralized, automated comparison services to municipal securities brokers and dealers. Through the NSCC system, NSCC processes municipal securities trade data submitted to NSCC by NSCC members and also by other registered clearing agencies on behalf of municipal securities brokers and dealers that are not NSCC members.[1]

DTC's proposal would enable DTC to act as a trade comparison data conduit to NSCC for: (1) Municipal securities brokers and dealers that are DTC participants but not NSCC participants;

[1] For a detailed description of NSCC's Municipal Bond Processing System, including its "municipal comparison only membership" ("MCOM") feature, *see* Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984). Midwest Clearing Corporation and Pacific Clearing Corporation also have established municipal securities comparison systems that are linked to NSCC's system. *See* Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984), approving Files Nos. SR–MCC–84–4 and SR–PCC–84–4. Stock Clearing Corporation of Philadelphia also recently filed with the Commission a similar proposed rule change. *See* File No. SR–SCCP–84–6. These rule changes are intended to assist the municipal securities industry in complying with changes in Municipal Securities Rulemaking Board ("MSRB") rules requiring use of automated clearance and settlement systems for certain municipal securities transactions. *See* Securities Exchange Act Release No. 20365 (Nov. 14, 1983), 48 FR 52531 (November 18, 1983), approving changes to MSRB Rules G–12 and G–15 that establish a two-phased timetable for integrating municipal securities brokers and dealers into the National Clearance and Settlement System. These rules require, by August 1, 1984, every municipal securities broker and dealer that participates in a registered clearing agency that offers automated municipal securities comparison services, or clears transactions through an agent that is a member of such clearing agency, to use those services to compare certain municipal securities transactions. By February 1, 1985, those municipal securities brokers and dealers or their agents also will be required to book-entry settle through a registered clearing agency certain transactions in depository-eligible securities.

and (2) municipal securities brokers and dealers that are NSCC MCOMs but not DTC participants.[2] Under the proposal, DTC would become an NSCC MCOM and would be subject to the limited NSCC financial responsibility and operational standards applicable to MCOMs.[3] As an MCOM, DTC would not be eligible to participate in NSCC's Continuous Net Settlement or other settlement systems, and therefore would have no financial responsibilities stemming from settlement through those systems. Instead, municipal securities brokers and dealers using DTC's communications facilities for MCOM activity would be solely responsible for settlement of submitted transactions.[4]

Pursuant to an agreement concluded with NSCC, DTC, on behalf of municipal securities brokers and dealers, would transmit trade input to NSCC and would forward NSCC comparison output back to submitting brokers and dealers.[5] Operationally, DTC would receive initial and supplemental trade data from brokers and dealers either on computer tape, via a direct computer-to-computer connection, or via a dial-up computer connection, and would transmit that data to NSCC. NSCC would enter the data into comparison operation of its Municipal Bond Processing System. NSCC would produce comparison reports for each broker or dealer and would transmit those reports to DTC. DTC then woud forward the reports to the submitting brokers and dealers, using the same computer communication mode used for the inputs. DTC also would forward to NSCC responses to advisories and other supplemental trade comparison notices.

DTC believes that the proposal will help the municipal securities industry comply with the recent changes in MSRB Rule G–12 requiring automated comparison for certain trades. In particular, DTC believes that municipal securities brokers and dealers that are NSCC MCOM's but not DTC participants may find it more convenient to use DTC's "dial-up" communication capabilities to communicate with NSCC than to communicate directly with NSCC.[6] Therefore, DTC believes that the proposal would make automated comparison services more easily available to many municipal securities brokers and dealers. DTC thus believes that the proposal is consistent with the requirements of the Act because it promotes the prompt and accurate clearance and settlement of municipal securities transactions.

For the following reasons, the Commission agrees with DTC that the proposal is consistent with section 17A of the Act and should be approved. First, the Commission believes that use of DTC's communication system as a conduit for access to NSCC's Municipal Bond Processing System is an efficient and economical method of supplying required automated comparison services to the municipal securities industry. Through DTC's communication system, many municipal securities brokers and dealers for the first time will be able to access easily NSCC's highly automated, efficient trade comparison services. In particular, more remotely located municipal securities brokers and dealers will be able to use DTC's dial-up feature to forward to, and receive trade comparison data from, NSCC. Those brokers and dealers otherwise would need to deliver trade data directly to NSCC in New York City or through NSCC branch offices in several major U.S. cities. Second, the Commission believes that by providing the municipal securities industry with additional methods of access to NSCC's automated comparison services, the proposal should provide flexibility to municipal securities brokers and dealers in complying with MSRB rules. To comply with MSRB Rules G–12, a municipal securities broker or dealer can choose to become an NSCC MCOM or an NSCC full member. It also can choose to use DTC's communications link with NSCC or to become a DTC participant. Finally, the broker or dealer can choose to become an MCOM or full member of one of several non-New York City clearing agencies providing municipal securities comparison services through a link with NSCC. Third, the Commission believes that the proposal should not adversely affect DTC's ability to safeguard securities and funds. As an NSCC MCOM, DTC simply will be acting as an intermediary in the processing of municipal securities trade data; DTC will not use NSCC's settlement systems, will not be required to contribute to NSCC's clearing funds, and will not be exposed to financial losses incurred by NSCC or its members. Consistent with current industry practice, municipal securities brokers and dealers using the DTC conduit will continue to be solely responsible for settling of compared transactions in accordance with applicable MSRB rules. As a result, the Commission concludes that DTC's proposal enhances municipal securities transaction processing efficiency and promotes compliance with MSRB rules without exposing DTC or its participants to any additional risks of financial loss.

DTC requested accelerated approval of the proposal because of the then impending August 1, 1984 deadline for municipal securities brokers and dealers to use automated clearing agency comparison systems. However, because the Commission is not the appropriate regulatory agency ("ARA") for DTC under section 3(a)(34) of the Act, section 19(b)(4)(A) of the Act prohibited the Commission from approving DTC's proposal on an accelerated basis without notification by DTC's ARA of its determination that the proposal is consistent with the safeguarding of funds and securities. Such notice was not received. Nonetheless, because the Commission seeks to maximize the use of automated comparison services by municipal securities brokers and dealers, the Commission authorized DTC to implement its proposal on a pilot basis pending final Commission determination.[7]

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–23751 Filed 9–6–84; 8:45 am]

BILLING CODE 8010–01–M

[2] DTC on August 2, 1984, filed with the Commission under section 19(b)(3)(A) of the Act a fee schedule for the services provided under this proposal. *See* Securities Exchange Act Release No. 21263 (August 23, 1984, *49 FR 34322* (Aug. 29, 1984), publishing File No. SR–DTC–84–7 for comment. As discussed in that filing, DTC will charge fees directly to non-DTC members.

[3] *See* Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984).

[4] For some municipal securities transactions compared by NSCC via DTC's communications facilities, settlement may be made by book-entry at DTC. Until February 1, 1985, DTC participants using DTC's communication facilities to submit trades to NSCC for comparison may settle trades in depository eligible securities either by book-entry movement or by physical delivery outside of depository facilities. After February 1, 1985, municipal securities trades compared by NSCC for depository eligible securities must be settled by book-entry delivery at a registered securities depository. *See* note 1, *supra.*

[5] Municipal securities brokers and dealers submitting trade data will be required to adhere to NSCC's trade comparison and uncompared trade resolution rules. *See* Part II of NSCC Procedures.

[6] NSCC does not have a dial-up communication capability. Some NSCC MCOMs are located far away from the NSCC branch office to which they physically would have to bring daily trade data if they were required to input data into NSCC's system directly.

[7] Securities Exchange Act Release No. 21164 (July 23, 1984), 49 FR 30267 (July 27, 1984).

[Rel. No. 21280; SR-NYSE-84-30]

Self-Regulatory Organizations; New York Stock Exchange; Filing and Order Granting Accelerated Approval of Proposed Rule Change

August 31, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 20, 1984, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NYSE is proposing to extend its pilot program [1] relating to implementation of a system for the execution, processing and reporting of standard odd-lot market orders to purchase or sell shares in American Telephone & Telegraph Co. ("AT&T") and the equity shares created as a result of the AT&T divestiture [2] from its scheduled expiration date of August 21, 1984 to February 21, 1985.

In its original filing implementing the pilot, the NYSE noted that in light of the increase in odd-lot order volume anticipated as a result of the divestiture, the Exchange was implementing procedures to ensure maximum capacity for odd-lot order processing as well as to provide for efficient clearance and settlement of these transactions. The Exchange has stated in its filing that the procedures detailed in its original filing (SR-NYSE-83-49) will remain in effect, without change for the duration of the extended pilot program.

Under the NYSE procedures, standard odd-lot market orders to purchase or sell shares of AT&T and the equity issues created as a result of the divestiture which are received prior to the opening of trading are processed through the Exchange's Opening Automated Report Services ("OARS") and executed at the opening price. No odd-lot differential is charged on these orders. Standard odd-lot market orders which are received after the opening are routed to the NYSE's Designated Order Turnaround ("DOT") System. Execution prices of these orders are based on the prevailing NYSE quotation in the stock in which the order is entered at the time the order reaches the system. No odd-lot differential is charged on these orders. In the event of a DOT system failure, standard odd-lot market orders in the AT&T issues may be routed to the Exchange's Pricing and Reporting System ("APARS") which is the system presently used for the pricing and reporting of all odd-lot orders executed on the Exchange. The orders will be executed at the price of the next round-lot sale which occurs after the order is received, plus or minus any differential.

The Exchange has stated in its filing that its experience to date currently has indicated that member firms are generally satisfied with the quality and timeliness of odd-lot executions as well as with the timeliness of reports in the AT&T divestiture issues. According to the NYSE, extension of the pilot program will provide the Exchange with an opportunity to further evaluate the efficiencies achieved by the program before making a determination as to what formal codifications are appropriate in this area. The NYSE states that, in providing for efficient execution, reporting, clearance and settlement of odd-lot orders, the proposed rule change is consistent with sections 11(a)(1) and 17(A)(1) of the Act which encourage the use of new data processing and communications techniques, creating the opportunity for more efficient and effective market operations.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549. Reference should be made to File No. SR-NYSE-84-30.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commissions Public Reference Room, 450 5th Street NW, Washington, DC. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the pilot program was scheduled to expire on August 21, 1984. An extension of the pilot program will provide the Exchange with the additional time necessary to study and evaluate the efficiencies achieved by the pilot program as well as to determine whether to submit a formal codification of procedures under the pilot. Therefore, the Commission believes it is appropriate to extend the pilot program until February 21, 1985.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-23750 Filed 9-6-84; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission approved the adoption of the pilot program (SR-NYSE-83-49) on November 18, 1983 (Securities Exchange Act No. 20400; 48 FR 53627, Nov. 28, 1983).

[2] The following issues are affected by the pilot procedures under the pilot program: American Information Technologies Corporation, American Telephone & Telegraph Co., Bell Atlantic Corporation, Bell South Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation, and U.S. West Inc.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2168]

Declaration of Disaster Loan Area; Arizona

Yuma County and the adjacent County of Maricopa in the State of Arizona constitute a disaster area because of damage caused by heavy rainfall and strong winds which occurred on July 12-22, 1984. Applications for loans for physical damage may be filed until the close of business of November 2, 1984, and for economic injury until the close of business on May 31, 1985, at the address listed below: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, CA 95825 or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available eleswhere	8.000
Homeowners without credit available elsewhere	4.000

	Percent
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 216806 for physical damage and for economic injury the number is 620500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 31, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-23739 Filed 9-6-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2164; Amdt. #1]

Declaration of Disaster Loan Area; Nevada

The above numbered Declaration (49 FR 32703) is hereby amended to include the adjacent County of Nye and to change the incidence period to July 22, 1984, through August 19, 1984. All other information remains the same, i.e. the termination date for filing applications for physical damage is the close of business on October 9, 1984, and for economic injury until the close of business on May 8, 1985.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 28, 1984.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 84-23740 Filed 9-6-84; 8:45 am]

BILLING CODE 8025-01-M

National Advisory Council; Meeting

The Small Business Administration, Office of Advisory Councils, located in the geographical area of Washington, D.C. will hold its semiannual National Advisory Council meeting from 3:00 p.m., Sunday, September 23, 1984, to 12:00 noon Tuesday, September 25, 1984, at the Washington Plaza Hotel, Massachusetts and Vermont Avenues NW., Washington, D.C. 20005 to discuss such matters as may be presented by members staff of the Small Business Administration, or others present.

For further information, write or call Jean M. Nowak, Director, U.S. Small Business Administration, Office of Advisory Councils, 1441 L Street NW., Washington, D.C. 20416, (202) 653-6748.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 4, 1984.

[FR Doc. 84-23741 Filed 9-6-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 915]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted two collections of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposals submitted to OMB:

1. Form number—DSP-23.
Title—Retail Price Schedule.
Purpose—Used to establish and justify temporary lodging, travel per diem, and cost of living allowances for all Federal civilian employees assigned to foreign service locations.
Type of request—Extension.
Origin—Bureau of Administration, Allowances Staff.
Frequency—Annual.
Respondents—Federal employees, agencies and businesses.
Estimated number of responses—16.
Estimated number of hours needed to respond—320.
2. Form number—DSP-64.
Title—Statement Regarding Lost or Stolen Passport.
Purpose—Used to document circumstances surrounding a passport applicant's inability to present a previously issued passport.
Type of request—Extension.
Origin—Bureau of Consular Affairs, Passport Services.
Frequency—On occasion.
Respondents—Passport applicants.
Estimated number of responses—35,000.
Estimated number of hours needed to respond—8,500.

Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comments: Copies of the forms and supporting documents may be obtained from Gail J. Cook, (202) 632-3602. Comments and questions should be directed to (OMB), Francine Picoult, (202) 365-7231.

Dated: August 28, 1984.

Robert E. Lamb,

Assistant Secretary for Administration.

[FR Doc. 84-23668 Filed 9-6-84; 8:45 am]

BILLING CODE 4710-22-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-84-16]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 27, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the

Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 31, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
24202	Bangor Int'l. Airport	14 CFR 91.303	To permit the continued operation of Stage 1 aircraft at Bangor Int'l. Airport.
24174	Air Transport Assn. of America	14 CFR 121.434(c)(1)	To allow member carriers to consider a pilot initially qualifying or upgrading as pilot in command as having satisfied the operating experience requirements after the appropriate number of hours whether or not those pilots had a flight leg observed by an FAA inspector.
24195	Mid Pacific Airlines, Inc	14 CFR 121.371(a), and 121.378	To allow petitioner to utilize Air New Zealand for the inspection, repair, and overhaul of Rolls Royce Dart 542–10 engines.
21228	Scandinavian Airlines Systems	14 CFR Parts 21 and 91	To extend the January 1, 1985, termination date of Exemption 3113A which allows the operation of leased B–747–283B aircraft using the provisions of a minimum equipment list.
24175	Barken Int'l., Inc	14 CFR 135.89(b)(3)	To allow operation of Learjet 24 and 35 series aircraft up to 41,000 feet without one pilot at the controls wearing, secured and sealed, an oxygen mask supplying oxygen.
24129	Larry Leverett Lupton	14 CFR 65.91(c)(1)	To allow petitioner to apply for an Inspection Authorization without having held a Mechanics Certificate with Airframe and Powerplant ratings for 3 uninterrupted years immediately before application.
24143	United Airlines	14 CFR Part 121, Appendix H	To allow petitioner to conduct a test program during which intitial training and checking for 50 pilots would be accomplished in an FAA-approved Phase II B-727 simulator, using the existing Phase III FAA-approved training program.
24161	Joseph D. Zweck	14 CFR 65.91(c)(1)	To allow petitioner to apply for an Inspection Authorization without having held a Mechanic's Certificate with both Airframe and Powerplant ratings for the 3-year period immediately before the application date.
24164	Royale Airlines	14 CFR 135.157(b)(2)	To allow petitioner to operate Grumman Gulfstream G–159 airplanes up to 25,000 feet mean sea level with an oxygen system providing oxygen to both pilots plus 10 percent of the passengers.
24100	Minerve Company	14 CFR 61.77	To allow Roger Leveque to obtain a Special Purpose U.S. Airmen Certificate after reaching his 60th birthday.
19475	Flight Safety Int'l	14 CFR 61.63(d), and 61.175(e), and Part 121, Appendix H.	To extend and amend Exemption 2054B, which expires October 31, 1984. The exemption allows trainees to complete a practical test for an Airline Transport Pilot certificate or the practical test for an added type rating in an FAA-approved simulator.
24181	The University of North Dakota	14 CFR Part 141, Appendix H	To allow training in specific maneuvers and procedures to a specific performance level rather than the minimum time requirements.
24157	Chiri Shrimp, S.A	14 CFR Part 91	To allow petitioner to operate a Douglas C–54–B–DC aircraft utilizing the provisions of a minimum equipment list.
24186	Arrow Air, Inc	14 CFR 91.303	To allow petitioner to operate Stage 1 Boeing 707 and DC–8 aircraft in noncompliance with the operating noise limits until compliance with the Part 36 noise standards can be achieved by installation of "hush kits."
24209	Air Caribbean Cargo, Inc	14 CFR 91.303	To allow Stage 1 aircraft to utilize Borinquen Field, PR, for international cargo and passenger flights.
23939	Kellogg Co	14 CFR Parts 21 and 91	To allow petitioner to operate Falcon 20 and Falcon 50 aircraft utilizing the provisions of minimum equipment list.
23939	Kellogg Co	14 CFR Parts 21 and 91	To allow petitioner to operate Falcon 20 and Falcon 50 aircraft utilizing the provisions of minimum equipment list.

Disposition of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23947	Pacific Southwest Airlines	14 CFR 91.191	To allow petitioner to conduct a series of one-time ferry flights from the delivery of BA–146–200A aircraft without meeting the radio equipment requirements for overwater operations. *Cancelled 8/14/84.*
24066	Capitol Air, Inc	14 CFR 121.411 and 121.413	To allow petitioners' crew to be trained in the operation of certain aircraft by instructors who do not meet the requirements of these sections. *Withdrawn 7/24/84.*
23946	First Security Bank of Boise, ID	14 CFR 91.181	To allow petitioner to conduct operations under § 91.181 in aircraft having a gross weight under 12,500 pounds. *Denied 7/31/84.*
22695	Air Transport Association of America	14 CFR Part 61 and 121	To waive the required oral or written equipment examination for Part 121 qualifying certificate holders if the applicant has satisfactorily completed the approved training program. The program would be completed within the preceding 60 days of the flight maneuvers portion of the practical test. *Denied 8/20/84.*
23995	TAMPA Airlines, S.A	14 CFR 91.303	To allow petitioner to operate two Boeing 707 Stage 1 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 8/14/84.*
23973	Lloyd Aereo Boliviano, S.A	14 CFR 91.303	To allow petitioner to operate two Boeing 707 aircraft until January 1, 1988, in noncompliance with the operating noise limits. *Denied 8/14/84.*
24000	LACSA	14 CFR 91.303	To allow petitioner to operate two DC–8 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 8/14/84.*
23986	"Faucett"	14 CFR 91.303	To allow petitioner to operate six DC–8 Stage 1 aircraft until the aircraft can be replaced or modified to comply with Stage 2 noise levels. *Denied 8/14/84.*
23846	Northeastern Int'l. Airways, Inc	14 CFR 121.291(a)	To permit petitioner to operate four B–727–100 aircraft in a 128-seat configuration without conducting an actual demonstration of emergency evacuation procedures. *Denied 7/24/84.*
23862	Tobin Surveys, Inc	14 CFR 91.109 (a) and (b)	To allow deviation from the VFR Hemispherical Rule while conducting aerial photography. *Denied 7/20/84.*
23732	Air North	14 CFR 135.181(a)(2)	To allow petitioner to operate Britten-Norman aircraft using alternate means of compliance with the performance requirements for a multiengine airplane carrying passengers over-the-top or in IFR conditions. *Denied 7/24/84.*

DISPOSITION OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23602	Boeing Commercial Airplane Company	14 CFR 121.579(a)	To permit operators of Boeing 757 and 767 aircraft to engage the autopilot during take-off climb at the minimum engagement altitude contained in the FAA-approved Airplane Flight Manual. *Denied 8/24/84.*
23994	Atlantic Richfield Co	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707 in noncompliance with the operating noise limits until "hush kits" are installed. *Denied 8/29/84.*
23953	Caribbean Air Cargo Co., Ltd	14 CFR 91.303	To allow petitioner to operate two Boeing 707 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 8/29/84.*
23988	Air Haiti, S.A	14 CFR 91.303	To allow petitioner to operate, under wet or dry lease, one Stage 1 four-engine aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 8/29/84.*
24001	TAP Air Portugal	14 CFR 91.303	To allow petitioner to operate Boeing 707 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 8/27/84.*
23999	Aerotransportes Entre Rios S.R.L	14 CFR 91.303	To allow petitioner to operate two Boeing 707 aircraft until January 1, 1988, in noncompliance with the operating noise limits. *Denied 8/27/84.*
23984	Transportes Aero Riopiatense, S.A.C.e.I	14 CFR 91.303	To allow petitioner to operate two Boeing 707 until January 1, 1988, in noncompliance with the operating noise limits. *Denied 8/27/84.*
23760	Alaska, State of, Div. of Forestry	14 CFR 91.79 (b) and (c)	To allow relief for accomplishment of fire suppression and natural resources missions and for the purpose of dropping aerial retardent or water in congested areas. *Partial Grant 7/13/84.*
23653	The University of North Dakota	14 CFR Part 141, Appendixes A, C, D, and F	To amend Exemption 3825 which allows aviation students of the University to graduate from the appropriate courses when they have been trained to a specific performance level rather than the minimum flight time requirements of this Part. *Partial Grant 7/18/84.*
24098	Alaska Helicopters, Inc	14 CFR Part 121 and SFAR 38	To allow petitioner to operate Boeing Vertol 234 helicopter under Part 135. *Partial Grant 8/27/84.*
23805	U.S. Dept. of Interior	14 CFR 91.79 (b) and (c)	To amend Exemption 3017A to permit low-level operations below an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet from the aircraft, and closer than 500 feet to persons, vehicles, and structures in other than congested areas. This exemption would apply to all departmental aircraft which includes, Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), Bureau of Reclamation, National Park Service (NPS), Geological Survey (GS), Mineral Management Service (MMS), Fish and Wildlife Service (FWS), and Office of Surface Mining (OSM). Such operations are necessary for aerial suppression of wild fires by retardant dropping, paracargo drops, search and rescue, enforcement of Federal game and trespass regulations, volcano monitoring and eruption documentation, and environmental protection surveys throughout the Nation. *Partial Grant 7/13/84.*
24036	Bar Harbor Airlines	14 CFR 135.157	To allow petitioner to operate its Beech Model 1900 airplanes at 25,000 feet mean sea level with an oxygen system providing oxygen to both crewmembers plus 10 percent of the passengers. *Partial Grant 8/22/84.*
24188	Sharon Steel Corp	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988. 1 BAC 1-11: N756B. *Granted 8/14/84.*
23725	Purolator Courier Corp	14 CFR 121.3(e), and 135.5	To amend Exemption 4064 to allow petitioner to file information at the Des Plaines, IL, ACDO instead of the Columbus GADO. This is necessary due to a change in the petitioner's headquarters and the fact that it is attempting to obtain Part 121 certification. *Granted 7/18/84.*
23970	Atkins Aviation, Inc	14 CFR 91.31(a)	To allow petitioner to operate a DC-6B aircraft with a 5 percent increase in zero fuel weight and landing weight. *Granted 7/23/84.*
23268	Aero Union Corp	14 CFR 91.27(a)(1) and 91.29(a)	To permit petitioner's pilots to ferry its McDonnell Douglas DC-4 and DC-6 aircraft to a maintenance base with one engine inoperative without obtaining a special flight permit. *Granted 7/23/84.*
24005	Tenneco, Inc	14 CFR 91.45	To allow petitioner to conduct ferry flights with one engine inoperative without having to obtain a ferry permit for each flight. *Granted 7/23/84.*
23607	Herman Miller, Inc	14 CFR 21.181	To amend and extend Exemption 3808 to permit petitioner to obtain a supplemental type certificate covering the operation of Lear 35A aircraft in accordance with the FAA-approved minimum equipment list. The amendment would add a Lear 55 aircraft to that exemption. *Granted 8/16/84.*
24048	Pakistan Int'l Airlines	14 CFR 21.181	To permit petitioner to operate a leased Boeing 747 aircraft using an FAA-approved master minimum equipment list and an FAA-approved continuous airworthiness maintenance program. *Granted 7/30/84.*
16784	Houston Helicopters, Inc	14 CFR 43.3(h)	To extend Exemption 2445C to permit petitioner's appropriately trained and certificated pilots to remove check, and reinstall magnetic chip detector plugs on its Allison 250-C series turbine engines, installed on Bell Model 206 helicopters. *Granted 8/14/84.*
23703	Republic Airlines	14 CFR 121.434(d)(3)	To amend Exemption 3907 to revise condition 4 of the exemption to require each flight engineer to acquire 12 hours rather than 25 hours of operating experience under the supervision of a check airman. *Granted 8/10/84.*
16955	American Airlines Training Corp	14 CFR 61.58(e)	To extend Exemption 2473E to allow petitioner's trainees to complete their entire 24-month pilot-in-command check in an approved flight simulator. *Granted 8/7/84.*
24065	Transair, Inc	14 CFR 141.5(b)	To permit petitioner to be issued a pilot school certificate even though it has not trained and recommended at least 10 applicants for pilot certification and rating tests within the preceding 24 months. *Granted 8/10/84.*
24189	HCI Helicopters, Inc	14 CFR 43.3(h)	To allow petitioner's appropriately trained and certified pilots to remove, check, and reinstall magnetic chip detector plugs. *Granted 8/9/84.*
23776	Semco Instruments, Inc	14 CFR 21.195(b)	To renew Exemption 3847 to allow petitioner to apply for experimental certificates for market surveys or sales demonstrations for two helicopters incorporating a helicopter whistler system developed by petitioner. *Granted 8/17/84.*
24149	Air Logistics	14 CFR 135.261(b)	To allow petitioner to operate its helicopters in a helicopter emergency medical evacuation service (HEMES) without complying with the duty time limitations. *Granted 8/20/84.*
24198	Connie Kalitta Services	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1 DC-9-15F: N9353 *Granted 8/24/84.*

DISPOSITION OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24133	Dominicana De Aviacion	14 CFR 21.181	To allow petitioner to operate two U.S.-registered DC-10-40 airplanes utilizing an FAA-approved minimum equipment list. *Granted 8/24/84.*

[FR Doc. 84-23692 Filed 9-6-84; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Supplemental Environmental Impact Statement; Chittenden County, VT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The Vermont Agency of Transportation is issuing this notice to advise the public that a Supplemental Environmental Impact Statement will be prepared for a proposed highway project in Chittenden County, Vermont.

FOR FURTHER INFORMATION CONTACT: George Jensen, Assistant Division Administrator, Federal Highway Administration, Federal Building, Montpelier, VT 05602. Telephone (802) 223-5294. Arthur J. Goss, Chief of Design, Vermont Agency of Transportation, State Administration Building, Montpelier, VT 05602. Telephone (802) 828-2663.

SUPPLEMENTARY INFORMATION: The Vermont Agency of Transportation (VAOT) in cooperation with the Federal Highway Administration (FHWA) is in the process of preparing a Supplemental Environmental Impact Statement (SEIS) for the Burlington Southern Connector Highway, between Interstate I 189 and Battery Street in Burlington, Vermont.

This Supplemental Statement will address the environmental impacts of highway construction in a wetland contaminated by wastes from a coal gasification plant.

Construction of this project will increase safety and convenience and improve travel quality in Burlington. It will also stabilize an uncontrolled hazardous waste area and improve wetland habitat conditions. No significant adverse impact is anticipated.

The proposed construction, including the associated remediation of a hazardous waste area and mitigation of wetland encroachment is being coordinated with the U.S. Army Corps of Engineers; U.S. Environmental Protection Agency; U.S. Department of Interior, Fish and Wildlife Service; and Vermont Agency of Environmental Conservation. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the Supplemental EIS should be directed to the FHWA or the VAOT at the addresses provided.

Issued on August 29, 1984.

George A. Jensen,

Assistant Division Administrator, Montpelier, Vermont.

[FR Doc. 84-23701 Filed 9-6-84; 8:45 am]
BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP84-13; Notice 1]

Union City Body Company, Inc.; Receipt of Petition for Inconsequential Noncompliance

Union City Body Company, Inc. of Union City, Indiana, 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 571.101, Motor Vehicle Safety Standard No. 101, *Controls and Displays.* 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 is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgment concerning the merits of the petition.

Union City Body Company produces "package cars" for United Parcel Service (UPS). In the period beginning apparently in 1981 and ending August 17, 1983, the petitioner manufactured 3411 such vehicles that did not comply with two requirements of Standard No. 101 that became effective September 1, 1980. The symbol shown in Table 1 of the standard for turn signals, and required by paragraph S5.2.1(a), is a pair of arrows, one pointing left and the other to the right; Union City's vehicles simply have circular indicators. The heater controls lack the fan symbol required but have "illuminated verbage." [sic]

The company argues that the noncompliances are inconsequential as the drivers of UPS vehicles have found the panel controls to be "adequately identified." The uniformity of UPS vehicles insures that drivers will not be confused if they shift to another vehicle.

Interested persons are invited to submit written data, views and arguments on the petition of Union City Body Company 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 comment 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.

Comment closing date: October 9, 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 August 31, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-23718 Filed 9-6-84; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 30, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub.

L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, DC 20220.

Alcohol, Tobacco and Firearms

OMB No. 1512–0189
Form No. ATF F 5100.8
Type of Review: Revision
Title: Distilled Spirits Plant Records and Report of Stamps and Alternative Devices (REC 5110/07–F 5100.8).

OMB No. 1512–0215
Form No. ATF F 5110.75
Type of Review: Revision
Title: Alcohol Fuel Plants (AFP) Records, Reports and Notices (REC 5110/10–F 5110.75).

OMB No. 1512–0270
Form No. ATF F 5110.40
Type of Review: Revision
Title: Distilled Spirits Plants (DSP) Production Records and Reports (REC 5110/01–F 5110.40).

OMB No. 1512–0198
Form No. ATF F 5110.28
Type of Review: Revision
Title: Distilled Spirits Plants (DSP) Production Records and Reports (REC 5110/03–F 5110.28).

OMB No. 1512–0207
Form No. ATF F 5110.43
Type of Review: Revision
Title: Distilled Spirits Plants (DSP) Denaturation Records and Reports (REC 5110/04–F 5110.43).

OMB No. 1512–0206
Form No. ATF F 5110.41
Type of Review: Revision
Title: Applications, Miscellaneous Requests and Notices for Distilled Spirits Plants (REC 5110/08–F 5110.41).

OMB No. 1512–0192
Form No. ATF F 5110.11
Type of Review: Revision
Title: Distilled Spirits Plants Warehousing Records and Reports (REC 5110/02–F 5110.11).

OMB No. 1512–0203
Form No. ATF F 5110.32 and ATF 5110.35
Type of Review: Revision
Title: Distilled Spirits Plants—Excise Taxes (REC 5110/06–F 5110.35).

OMB No. 1512–0298
Form No. ATF F 5120.38, ATF F 5120.28 and ATF REC 5120/01
Type of Review: Reinstatement
Title: Usual and Customary Business Records Relating to Wine (REC 5120/01).

OMB No. 1512–0250
Form No. REC 5110/05
Type of Review: Revision
Title: Distilled Spirits Plants (DSP) Transaction and Supporting Records (REC 5110/05).

Clearance Officer: Howard Hood (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, 1200 Pennsylvania Avenue NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

James V. Nasche, Jr.,
Departmental Reports Management Office.

[FR Doc. 84–23755 Filed 9–6–84; 8:45 am]
BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: UNITED STATES INFORMATION AGENCY.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. USIA is requesting approval of an information collection for a new form IAP–94, Supplementary Information—Travelers Funded by USIA.

DATE: Comments must be received by October 15, 1984.

Copies: Copies of the request for clearance (SF–83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street SW., Washington, D.C., 20547, telephone (202) 485–8676. And OMB review: Michael Weinstein, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., telephone (202) 395–4814.

SUPPLEMENTARY INFORMATION: American Participant Travel Log. Abstract: A report is required for submission to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee listing all individuals, with their organizations, who in the preceding five years, made two of more trips involving foreign travel financed in whole or substantial part by grants from USIA's Office of Private Sector Programs. The information must be obtained from grantees, which necessitates the information collection.

Dated: September 4, 1984.

Charles N. Canestro,
Federal Register Liaison.

[FR Doc. 84–23771 Filed 9–6–84; 8:45 am]
BILLING CODE 8230–01–M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held September 12, 1984 in Room 600, 301 4th Street, SW., Washington, D.C. From 10:00 a.m.–11:00 a.m. USIA's Comptroller will discuss the Agency's budget. From 11:00 a.m.–12 noon the Acting Director of the Voice of America will discuss VOA programs and activities. The Commission will meet from 1:00 p.m.–2:30 p.m. with USIA's Inspector General and Chief Inspector.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting since entrance to the building is controlled.

Dated: August 31, 1984.

Charles Canestro,
Management Analyst, Federal Register Liaison.

[FR Doc. 84–23644 Filed 9–6–84; 8:45 am]
BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Medical Research Service Merit Review Boards; Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92–463 of the meetings of the following Merit Review Boards.

Merit review Board	Date	Time	Location
Alcoholism and drug dependence	Sept. 25, 1984	8 a.m. to 5 p.m.	Room 119, VA Central Office.[1]
Immunology	Oct. 2, 1984	do	Cabinet Room, The Governor's House.[2]
Infectious diseases	Oct. 7, 1984	do	Roosevelt Room, Sheration Washington Hotel.[3]
Do	Oct. 8, 1984	do	
Oncology	Oct. 9, 1984	do	Room 119, VA Central Office.[1]
Endocrinology	Oct. 10, 1984	do	Cabinet Room, The Governor's House.[2]
Do	Oct. 11, 1984	do	Do.
Hematology	Oct. 16, 1984	do	Room 119, VA Central Office.[1]
Mental health and behavioral sciences	Oct. 17, 1984	do	Gramercy Hotel.[4]
Do	Oct. 18, 1984	do	Do.
Do	Oct. 19, 1984	do	Do.
Gastroenterology	Oct. 22, 1984	do	Room 817, VA Central Office.[1]
Respiration	Oct. 22, 1984	7 p.m. to 11 p.m.	Gramercy Hotel.[4]
Do	Oct. 23, 1984	8 a.m. to 5 p.m.	Do.
Surgery	Oct. 25, 1984	8 a.m. to 5 p.m.	Windsor Room, Westin St. Francis Hotel.[5]
Cardiovascular studies	Oct. 25, 1984	do	Cabinet Room, The Governor's House.[2]
Do	Oct. 26, 1984	do	Do.
Basic sciences	Oct. 29, 1984	do	Gramercy Hotel.[4]
Do	Oct. 30, 1984	do	Do.
Neurobiology	Nov. 1, 1984	do	Cabinet Room, The Governor's House[2]
Do	Nov. 2, 1984	do	Do.
Do	Nov. 3, 1984	do	Do.
Nephrology	Nov. 5, 1984	do	Room 119, VA Central Office.[1]

[1] Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.
[2] The Governor's House, Rhode Island Avenue at 17th Street, NW., Washington, DC 20036
[3] Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, DC 20008.
[4] Gramercy Hotel, 1616 Rhode Island Avenue, NW., Washington, DC 20036.
[5] Westin St. Francis Hotel, 335 Powell Street, San Francisco, CA 94102.

These meetings will be for the purpose of evaluating scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration Medical Centers and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, closing portions of these meetings are in accordance with 5 U.S.C., 552b(c) (6) and (9)(b). Because of the limited seating capacity of the rooms, those who plan to attend should contact Mr. Howard M. Berman, Chief, Program Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389–5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: August 31, 1984.

By direction of the Administrator.

Stratton M. Appleman,

Executive Assistant to the Associate Deputy Administrator for Public and Consumer Affairs.

[FR Doc. 84–23660 Filed 9–6–84; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Medical Center, Dallas, Texas; Clinical Addition/Renovation of Building No. 2 and Spinal Cord Injury Center; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the "Clinical Addition/Renovation of Building No. 2 and Spinal Cord Injury Center" project at the Veterans Administration Medical Center (VAMC) Dallas, Texas, and has determined that the potential environmental impacts will be minimal from the development of this project.

The most significant element of the project is a multi-storied addition to be constructed onto the front of the main hospital building (Building No. 2).

New construction will accommodate expansion or relocation space from approximately 36 services including surgery, nursing wards, Medical Intensive Care Unit/Coronary Care Unit/Supply Processing and Distribution, laboratory, dietetics, rehabilitating medicine, canteen, etc. Renovated space will include most of the nursing units within Building No. 2, and the backfilling of spaces vacated by functions which are to be relocated into new construction.

Two 30-bed Spinal Cord Injury Units (SCIU's)—one chronic (long-term) and one acute (short-term)—are included in the project.

Several non-psychiatric functions, presently housed in Building No. 1, will be relocated to new construction or renovated areas within Building No. 2. The vacated space will allow existing psychiatric services to be expanded and concentrated within Building No. 1.

Site improvements will include redesigned vehicular entrance drives, the development of a station loop road, new parking areas realigned with new building entrances, new utility services, site lighting, signage, and landscaping.

New construction will total approximately 500,000 square feet; renovated areas will include approximately 500,000 square feet.

Development of the project will cause minor impacts on the human and natural environment affecting noise levels, onsite and offsite traffic, onsite parking, solid waste disposal, water quality, and visual impacts. Temporary impacts from minor air quality degradation (dust & fumes), soil erosion, traffic congestion, and noise levels will occur during construction operations.

Temporary impacts by construction noise will be mitigated by using mufflers on all equipment and scheduling noisy activities to create the least amount of disturbance. Air quality degradation, erosion, sedimentation, and other impacts associated with construction activities will be mitigated through the enforcement of Section 01568 (Environmental Protection) of the VA Construction Specifications.

Furthermore, impacts will be minimized by responding to the regulations or control measures of all applicable Federal, State, and local regulatory agencies (i.e., OSHA, USDA/SCS, etc.).

Permanent impacts associated with the alteration of views into the site from adjacent properties and roadways will be mitigated by designing an addition to the main hospital building which respects the scale and architectural intent of Building No. 2. The installation of landscape planting and berms will further mitigate views. Losses in open space (particularly in front of the hospital) will be compensated by additional landscaping and the dedication of shrubbery and lawn areas throughout the peripheral zones of the project site.

Increases in medical center generated traffic will be offset by improved traffic flows created by retiming lights, redesigning entrances, extending the station loop road, and redesigning parking lots.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality, (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is available for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 29, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84–23659 Filed 9–6–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 175
Friday, September 7, 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).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: VOL. 49 NO. 172-35000.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Thursday, September 6, 1984.

CHANGES IN THE MEETING: Agenda meeting scheduled for Thursday, September 6, 1984 has been cancelled. The item of business, NEISS/Alternate Data Sources, to be discussed on September 6 has been moved up to the first item of business scheduled for September 10. Listed below is the revised Agenda.

Commission Meeting, Monday, September 10, 10:00 a.m.
Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

Open to the Public

1. NEISS/Alternate Data Sources: Contractor Briefing

The Contractor for the Hazard Data Systems Study will brief the Commission concerning their findings for available options for collecting injury data.

2. FY 86 Budget

The staff and the Commission will continue to discuss issues related to the Fiscal Year 1986 Budget.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301—492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84–23864 Filed 9–5–84; 3:51 pm]

BILLING CODE 6355–01–M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—September 12, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Proposed Rulemaking Proceeding: Electronic Tariff Filing.
2. Docket No. 84–25: Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States—Consideration of comments and proposed final rule.

Portion Closed to the public:

1. Docket No. 83–39: Agreement No. 10464—Review of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–23814 Filed 9–5–84; 12:07 pm]

BILLING CODE 6730–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, September 12, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Eligibility issues regarding Federal Reserve Bank and Branch directors.
3. Proposed acquisition of computer and check processing equipment within the Federal Reserve System.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. 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. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

James McAfee,

Associate Secretary of the Board.

Dated: September 4, 1984

[FR Doc. 84–23770 Filed 9–4–84; 5:06 pm]

BILLING CODE 6210–01–M

federal register

Friday
September 7, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

District of Columbia: DC84–3009	Apr. 6, 1984.
Indiana: IN83–2072	Sept. 2, 1983.
Kentucky:	
KY84–1006	Mar. 16, 1984.
KY84–1007	Do.
Maryland: MD83–3010	June 3, 1983.
Massachusetts: MA84–3007	Apr. 6, 1984.
Missouri:	
MO84–4044	Aug. 3, 1984.
MO84–4025	Apr. 27, 1984.
Nebraska: NE84–4029	May 4, 1984.
Nevada: NV84–5014	June 8, 1984.
New Hampshire:	
NH84–3014	May 11, 1984.
NH84–3022	July 6, 1984.
New Jersey:	
NJ84–3019	Do.
NJ84–3020	July 27, 1984.
New York: NY83–3027	July 22, 1984.
North Dakota: ND81–5131	July 6, 1981.
Pennsylvania: PA83–3001	Aug. 19, 1983.

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Kentucky: KY83–1064 (KY84–1029)	Sept. 23, 1983.
Oklahoma:	
OK84–4033 (OK84–4049)	May 18, 1984.
OK83–4068 (OK84–4050)	Do.

Signed at Washington, D.C. this 31st day of August 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

DECISION NO. DC84-3009-
MOD. #4
(49 FR 13800-April 6,1984)
DISTRICT OF COLUMBIA,MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE D.C. TRAINING SCHOOL,VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES

CHANGE:
PAINTERS/DRYWALL FINISHERS
WASHINGTON D.C.

	Basic Hourly Rates	Fringe Benefits
NEW CONSTRUCTION	$15.25	2.74
REPAINT/REMODELING	14.25	2.74
DRYWALL SANDERS $1.00 LESS		
MONTGOMERY & PRINCE GEORGES COUNTIES, MARYLAND & ARLINGTON COUNTY, VIRGINIA		
NEW CONSTRUCTION	13.50	2.74
REPAINT/REMODELING	12.50	2.74
DRYWALL SANDERS $1.00 LESS		

DECISION NO. IN83-2072
Mod. #2
(48 FR 40079 - September 2, 1983)
LAKE, LAPORTE, PORTER & ST. JOSEPH COS., INDIANA

OMIT:
CARPENTERS:
HEAVY AND HIGHWAY CONSTRUCTION:
Area 1

ADD:
CARPENTERS:
HEAVY AND HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits
Area 2	$14.76	$2.65

DECISION NO. KY84-1006
Mod # 2
(49 FR 9997 - March 16, 1984)

Warren County, Kentucky

CHANGE:

PLUMBERS:

	Basic Hourly Rates	Fringe Benefits
Contracts $100,000.00 or Less	$10.68	3.65
Contracts over $100,000.00	16.01	3.65

DECISION NO. KY84-1007
Mod # 3
(49 FR 9999 - March 16, 1984)

Hardin, Jefferson & Meade Cos., Kentucky

CHANGE:

PLUMBERS & PIPEFITTERS:

	Basic Hourly Rates	Fringe Benefits
Area 1:		
Plumbers:		
Contracts $100,000.00 or Less	$10.68	3.65
Contracts over $100,000.00	16.01	3.65
Area 2:		
Plumbers:		
Contracts $100,000.00 or Less	10.68	3.65
Contacts over $100,000.00	16.01	3.65
Area 3:		
Plumbers:		
Contracts $100,000.00 or Less	10.68	3.65
Contracts over $100,000.00	16.01	3.65

DECISION NO. MD83-3010-
MOD. #6
(48 FR 25100-June 3,1983)
ANNE ARUNDREL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE & BALTIMORE CITY MARYLAND, & FOR HEAVY CONSTRUCTION IN HARFORD & HOWARD COUNTIES, MARYLAND

CHANGE:
PAINTERS:

	Basic Hourly Rates	Fringe Benefits
ANNE ARUNDREL COUNTY NORTH OF THE PATUXENT RIVER:		
Brush, roller, spackling taping, & wallcovering	$13.30	2.29
Steel, spray, swinging stages, boatswain chair sand & waterblasting, steam cleaning, & epoxies	14.05	2.29
Ames tool-bazooka	14.30	2.29
ANNE ARUNDEL COUNTY SOUTH OF THE PATUXENT RIVER:		
Painters/Drywall Finishers:		
New construction	11.50	2.74
Repaint/Remodeling	10.50	2.74
Drywall Sanders $1.00 less		

DECISION NO. MA84-3007
MOD. NO. 2
(49 FR 13804 - April 6, 1984)
Berkshire, Franklin, Hampden, and Hampshire Counties, Massachusetts

CHANGE:
CARPENTERS, SOFT FLOOR LAYERS;DRYWALL CARPENTERS:

	Basic Hourly Rates	Fringe Benefits
AREA 1	$14.29	2.99
AREA 3	15.40	3.07

DECISION #MO84-4044 -
Mod. #1
(49 FR 31198 - August 3, 1984)
Statewide, Missouri

CHANGE:
CARPENTERS & PILEDRIVER-MEN:

	Basic Hourly Rates	Fringe Benefits
Zone 6A	$16.22	1.31

DECISION #NE84-4029-Mod. #1
(49 FR 19199-May 4, 1984)
Cass, Douglas, Sarpy, and Washington Counties, and that portion of Saunders County east of Highway #109, Nebraska

Add:

	Basic Hourly Rates	Fringe Benefits
Painters:		
Brush	$13.42	1.05
Spray: swing stage and sandblasting	14.02	1.05
Steel	13.77	1.05

DECISION NO. NV84-5014 -
MOD. #2
(49 FR 23988 - June 8, 1984)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway construction in Douglas Co., Nevada

Change:
In Modification No. 2 published on August 24, 1984, all Power Equipment Operator changes apply to all counties except for Clark, Esmeralda, Lincoln, and Nye Cos.

DECISION NO. NH84-3014 - MOD. #1 (49 FR 20226 - May 11, 1984) Rockingham and Strafford Counties, New Hampshire	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Area 2:		
Carpenters	$13.86	1.80
Piledrivers, Wharf and Dock Builders and Millwrights	14.71	1.80
Area 3:		
Carpenters	13.86	1.80
Dock Builders and Millwrights	14.71	1.80

DECISION NO. NJ84-3019 - MOD. #2 (49 FR 27883 - July 6, 1984) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians and Cable Splicers:		
Zone 8	$20.77	10%+ 2.50
Laborers:		
Zone 11:		
Group 1	12.55	3.10
Line Construction:		
Zone 1	18.78	27.75%
Zone 5	20.77	10%+ 2.54
Zone 10:		
Linemen, Cable Splicers	19.44	32.75%
Groundmen & Winch Op.	19.44	32.75%
Power Equipment Operators:		
Tank Erection:		
Class A	24.41	5.80+ a

DECISION NO. NJ84-3020 - MOD. #2 (49 FR 30280 - July 27, 1984) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters, Millwrights and Insulators:		
Zone 2:		
Millwrights	$19.56	15.5%
Zone 4:		
Carpenters, Insulators and Millwrights	16.97	5.28
Zone 5:		
Carpenters & Insulators	18.50	20.5%
Millwrights	19.00	20.5%
Dock Builders and Piledrivermen:		
Zone 1	15.97	6.71
Ironworkers:		
Zone 2	19.43	4.20

DECISION #MO84-4025-Mod. #3 (49 FR 18220-April 27,1984) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson and Lafayette Counties, Missouri; Johnson and Wyandotte Counties, Kansas.	Basic Hourly Rates	Fringe Benefits
Omit:		
Plumbers	$17.96	2.70
Add:		
Plumbers:		
Zone 1 - Cass, Clay, Jackson, and Platte Counties, Missouri; Johnson and Wyandotte Counties, Kansas	18.46	2.70
Zone 2 - Johnson, Henry, Lafayette, and Ray Counties, Missouri	16.02	2.70

DECISION NO. NJ84-3020 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Ironworkers (Cont'd)		
Zone 3	$18.35	4.30
Power Equipment Operators:		
Tank Erection:		
Class A	24.41	5.80+ a
Soft Floor Layers:		
Zone 2	16.77	16%
Zone Descriptions:		
Carpenters:		
Zone 2:		
Burlington County		
Zone 4:		
Remainder of Mercer County		

DECISION NO. NH84-3022 - MOD. #1 (49 FR 27880 - July 6, 1984) Hillsborough and Merrimack Cos., New Hampshire	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Area 1:		
Carpenters and Soft Floor Layers	$16.06	4.32
Area 2:		
Carpenters and Soft Floor Layers	15.91	4.47
Laborers:		
Group 2	8.75	2.80+ d

DECISION NO. NY83-3027 - MOD. #4 (48 FR 33622 - July 22, 1983) NASSAU & SUFFOLK COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
OMIT:		
PAINTERS: Nassau County (Inwood, Lawrence, Cedarhurst, Woodmere, Wewlett, Hewlett Bay, East Rockaway, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson, and part of Valley Stream		
ADD:		
PAINTERS: Nassau County (Lakeville Road north from Union Tpke. to Northern Blvd., all areas on north side of Northern Blvd. east to Roslyn Bridge and Hempstead Harbor, bounded by Hempstead Harbor, east, and Long Island Sound, north; all areas south of Sunrise Hwy. going east to Long Beach Rd., then south on Long Beach Rd. to Foxhurst Ave, east on Foxhurst Ave. to Baldwin Road sign; all areas south of Baldwin Road sign, including Point Lookout and all areas west back to New York City limits)		
Painters	15.16	.01+30%
Spray	18.41	.01+30%
Fire Escapes	17.33	.01+30%

DECISION NO. PA83-3001 - MOD. #8
(48 FR 37805 - August 19, 1983)
Adams, Berks, Bradford, Carbon, Columbia, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, Dauphin, Cumberland, York Counties, Pennsylvania

CHANGE

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Juniata, Perry & York Counties Pennsylvania:		
Linemen	15.06	.80+3 3/8%
Winch Truck Operators	10.54	.80+3 3/8%
Truck Driver	9.79	.80+3 3/8%
Groundman	9.04	.80+3 3/8%
MILLWRIGHTS: Adams, Bradford, Cumberland, Columbia, Dauphin, Juniata, Lebanon, Luzerne, Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union & Lancaster Counties & Townships in Carbon County: Bank, Lausanna, Lehigh & Northern part of Packer Wyoming County, York County, New Cumberland Army Depot & Harrisburg-York State Airport	16.57	2.55
POWER EQUIPMENT OPERATORS Zone I (Heavy Construction)		
Group 1	15.89	26.6% +a
Group 2	15.60	26.6% +a
Group 3	14.72	26.6% +a
Group 4	13.95	26.6% +a
Group 5	13.47	26.6% +a
Group 6	12.55	26.6% +a
Group 7	16.14	26.6% +a
Group 7-A	16.41	26.6% +a
Group 7-B	16.64	26.6% +a

DECISION NO. ND81-5131 - Mod. #9
(46 FR 35008 - July 6, 1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

Change:

	Basic Hourly Rates	Fringe Benefits
Ironworkers: Structural, Ornamental and Reinforcing	$14.63	$3.96

STATE: KENTUCKY
COUNTIES: Boone, Campbell, Kenton and Pendleton
DECISION NUMBER; KY84-1029
DATE: Date of Publication
Supersedes Decision Number KY83-1064 dated September 23, 1983 in 48 FR 43520.
DESCRIPTION OF WORK: HEAVY and HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$17.00	2.625
CEMENT MASONS	15.38	2.12
ELECTRICIANS:		
Linemen	18.75	3-1/4% +3.30
Groundmen	14.06	3-1/4% 3.30
IRONWORKERS:		
Reinforcing	15.93	4.27
Structural	16.03	4.33
LABORERS:		
Group 1	13.57	3.00
Group 2	13.695	3.00
Group 3	13.77	3.00
Group 4	13.92	3.00
Group 5	14.22	3.00
PAINTERS:		
Brush	16.90	1.00
Spray	17.40	1.00
Sandblast, waterblast, and hopper tender	17.65	1.00
PAINTERS - on Bridges when highest point of clearance is sixty (60 feet or more:		
Brush	17.65	1.00
Spray	18.15	1.00
Sandblast, waterblast, and hopper tender	18.65	1.00
PILEDRIVERMEN	17.00	2.625
PLUMBERS	15.97	3.42
TRUCK DRIVERS:		
Drivers - Single axle dump truck, flat bed truck, semi-trailer or pole trailer when used to pull building materials & equipment, Dump truck tandem axle, driver of distributors	13.17	78.50a
Drivers - Euclid and other heavy earth moving equipment and low boy, winch truck and A-Frame truck when used in transporting materials and Ross Carrier, fork lift truck when used to transport building materials, driver on pavement breakers	13.27	78.50a
Truck mechanic	13.17	78.50a
Truck helper & Mobile Batch Truck Helper	12.88	78.50a
Greaser, tirechanger & mechanic helper	12.99	78.50a
Driver - on mixer trucks (all types)	13.20	78.50a
POWER EQUIPMENT OPERATORS		
CLASS A	16.89	3.61
CLASS B	16.77	3.61
CLASS C	15.73	3.61
CLASS D	15.30	3.61
CLASS E	11.44	3.61
WELDERS: Receive rate for craft performing operation to which welding is incidental.		

CLASSIFICATION DEFINITIONS

LABORERS:
Group 1 - Laborers (construction), plant laborers or yardmen, right-of-way laborers, landscape laborer, utility man or handyman, joint setter, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, rip-rap laborer or grouter, asphalt laborer, dump man (batch trucks), guard rail and fence installer, mesh handler and placers, concrete curing applicator, scaffold erector.
Group 2 - Asphalt raker, concrete puddler, kettleman (pipeline), all machine driven tools (gas, electric, air), mason tenders, mortar mixer, sheeting and shoring man, surface grinder man, power buggy and wheelbarrow (power).
Group 3 - Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and water line, cleaning and repairing and reconditioning), tunnel laborer (without air), and caisson, cofferdam (below 25 ft. deep), air track and wagon drill.
Group 4 - Blaster and powder man, muckers, wrencher (mechanical joint and utility pipeline), yarner, top lander.
Group 5 - Curb setter and cutter, miner (without air), concrete crew in tunnels, utility pipeline tapper, gunnite nozzleman, waterline caulker.

POWER EQUIPMENT OPERATORS:
CLASS A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plants (over 4 yd. capacity), concrete pumps, cranes (all types, including A-Frame, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator - hoist or winch), hoes (all types), hoisting engines on shaft or tunnel work, hoisting engines, industrial type tractors, jet engine dryer (D8 or D9), diesel tractor, locomotives (standard guage), maintenance operator Class A, mixer, paving (single or double drum), mucking machine, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator.
CLASS B - Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozer, endloader, Kolman Loader (production type-dirt), lead grease man, maintenance operators Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under), boring machine operator (more than 48").
CLASS C - Air compressor on tunnel work (low pressure), asphalt plant, locomotive engineer (narrow gauge), mixers, concrete (more than one bag capacity), mixers (one bag capacity), side loader, power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers (asphalt), utility operator (small equipment), welding machines and generators.

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D):
CLASS D - Back fillers, bar joint and mesh installing machine, batch plant, bullfloats, burlap and curing machine, compressors (portable, sewer, heavy, and highway), concrete plant (capacity 4 yds. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway - with integral power), farm type tractors with attachments (highway), finishing machines,fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post drivers, post hole diggers (power auger), power brush burner, power form handling equipment, road widening trenchers, rollers (brick,grade, macadam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power), boring machine operators (48" or less), hydro hammer, pavement breakers.
CLASS E - Drum fireman (asphalt plant), tenders, inboard-outboard motor boat launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalman, tire repairmen.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

STATE: OKLAHOMA

COUNTIES: Adair,Atoka,Bryan,Cherokee, Coal,Craig,Creek,Delaware,Haskell, Hughes,Latimer,LeFlore,McIntosh, Mayes,Muskogee,Nowata,Okfuskee, Okmulgee,Osage,Ottawa,Pawnee, Pittsburg,Pushmataha,Rogers,Sequoyah, Tulsa,Wagoner,Washington

DECISION NO.: OK84-4049

DATE: Date of Publication

SUPERSEDES DECISION NO. OK84-4033, dated May 18, 1984 in FR 21257.

DESCRIPTION OF WORK: BUILDING PROJECTS (excluding single family homes and apartments up to and including 4 stories); Water and Sewer Treatment Plant Construction in Tulsa County, Oklahoma; and Heavy Construction within the city of Muskogee.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area I	$17.16	$2.76
Area II	17.76	2.33
BOILERMAKERS	16.125	2.95
BRICKLAYERS, STONEMASONS:		
Area I	16.00	2.35
Area II	15.31	2.25
Area III	14.84	2.04
Area IV	15.31	1.54
Area V	16.90	
Area VI	14.50	1.40
CARPENTERS - AREA I		
Carpenters	11.85	1.70
Millwrights, Piledrivermen	13.20	1.70
CARPENTERS - AREA II		
Carpenters	12.88	.85
Millwrights, Piledrivermen	14.33	.85
CARPENTERS - AREA III		
Carpenters	11.95	1.25
Piledrivermen	12.775	1.25
Millwrights	14.38	1.25
CARPENTERS - AREA IV		
Carpenters	14.08	1.72
Millwrights	14.38	1.72
Piledrivermen	14.38	1.72
CARPENTERS - AREA V		
Carpenters	13.50	
Millwrights	16.40	
Piledrivermen	16.10	
CARPENTERS - AREA IV		
Carpenters	12.19	1.57
Millwrights, Piledrivermen	12.69	1.57
CARPENTERS - AREA VII		
Carpenters	$12.70	$1.10
Millwrights, Piledrivermen	14.38	1.10
Power Saw Operator	12.95	1.10
CARPENTERS - AREA VIII		
Carpenters	12.62	1.50
Millwrights, Piledrivermen	12.87	1.50
CEMENT MASONS:		
Area I	10.80	
Area II	13.83	.85
Area III	15.14	.76
POWER TOOL OPERATOR:		
Area I	11.05	
Area II	14.08	.85
Area III	15.54	.76
ELECTRICIANS:		
Area I - Zone I	14.55	3-1/4% +.80
Zone II	14.95	3-1/4% +.80
Area II	14.90	3.5%+ 2.20
Area III	17.10	9%+.80
Area IV	15.90	3%+ 1.77
CABLE SPLICERS:		
Area I - Zone I	14.95	3-1/4% +.80
Zone II	15.35	3-1/4% +.80
Area II	15.15	3.5% +2.20
Area III	18.81	9%+.80

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
Area I		
Journeymen	$15.34	3.00+a
Helpers	70%JR	3.00+a
Probationary Helper	50%JR	
Area II		
Journeymen	14.665	2.465 +a
Helpers	70%JR	2.465 +a
Probationary Helper	50%JR	
GLAZIERS		
Area I	15.72	.30
Area II	15.04	
Area III	14.68	1.96
IRONWORKERS:		
Area I	16.19	2.92
Area II	14.60	2.67
LABORERS - AREA I		
Group I	10.65	1.00
Group II	10.95	1.00
LABORERS - AREA II		
Group I	9.65	1.00
Group II	9.95	1.00
LABORERS - AREA III		
Group I	9.25	1.00
Group II	9.55	1.00
LABORERS - AREA IV		
Group I	9.30	1.00
Group II	9.55	1.00
PAINTERS - AREA I		
Brush,Sheetrock handtools	14.70	.90
Highwork & Stage	15.10	.90
Spray, & Sandblasting, Sheetrock Power Tools	15.70	.90
Hot & Bituminous	16.00	.90
PAINTERS - AREA II		
Brush & Roller	9.90	1.03
Brush, Roller (Strl. Steel)	10.15	1.03
Spray	10.55	1.03
Swing Stage, Bosun Chair	10.15	1.03
Taping & Bedding (hand tools)	10.20	1.03
Sandblasting	10.25	1.03
PAINTERS - AREA III		
Brush,Roller,Tapers & Paperhangers	13.02	.60
Spray,Steamclean,Sandblast & Pot Tenders	13.52	.60
PLASTERERS - AREA I	15.45	.01
AREA II	13.45	
PLUMBERS & PIPEFITTERS:		
AREA I	$16.62	$2.82
AREA II	17.25	2.35
AREA III	16.64	2.27
AREA IV		
Mechanical Contracts under $150,000.00	14.00	2.475
Mechanical Contracts $150,000.00 & over	15.50	2.475
AREA V	15.20	2.25
ROOFERS	12.40	1.39
SHEET METAL WORKERS:		
AREA I	16.15	2.66
AREA II	16.58	3%+ 1.89
SOFT FLOOR LAYERS:		
AREA I	13.95	2.03
AREA II	13.47	1.89 +b
SPRINKLER FITTERS	16.17	3.23
LATHERS - AREA I	14.25	2.04
AREA II	12.62	1.30
TILE LAYERS, TERRAZZO WORKERS & MARBLE MASONS:		
AREA I	16.25	1.50
AREA II	15.09	3.10
TILE & MARBLE FINISHERS:		
AREA I	13.35	
AREA II	12.72	2.00
TERRAZZO FINISHERS:		
AREA I	14.20	
AREA II	12.72	2.00
TERRAZZO FLOOR MACHINE:		
AREA I	14.50	
AREA II	12.92	2.00
TERRAZZO BASE MACHINE:		
AREA I	14.90	
AREA II	13.26	2.00
LINE CONSTRUCTION (except Braden, Pocola & Spiro Townships in LeFlore Co.):		
Linemen	16.24	3-1/2% +1.00
Cable Splicers	17.54	3-1/2% +1.00
Hole Digger Operator & Heavy Equipment Op. (pole or cat equivalent)	14.41	3-1/2% +1.00
Jack Hammerman	11.50	3-1/2% +1.00

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Braden, Pocola, and Spiro Townships in LeFlore Co.; that portion east of Brent, Prices Chapel, Rocky Mountain & Sallisaw Townships in Sequoyah Co.:		
Lineman, Heavy Equipment Operator	14.54	1.30+ 3-3/4%
Cable Splicer	14.79	1.30+ 3-3/4%
Powderman	90%JR	1.30+ 3-3/4%
Truck Driver	75%JR	1.30+ 3-3/4%
Groundman	75%JR	1.30+ 3-3/4%
POWER EQUIPMENT OPERATORS:		
Group I	$15.75	$2.18
Group II	15.25	2.18
Group III	14.75	2.18
Group IV	14.50	2.18
Group V	14.25	2.18
Group VI	14.00	2.18
Group VII	13.75	2.18
Group VIII	12.75	2.18
Group IX	13.35	2.18
TRUCK DRIVERS:		
AREA I		
Group I	12.80	
Group II	12.85	
Group III	12.95	
AREA II		
Group I	10.43	
Group II	10.53	
Group III	10.63	
Group IV	10.58	
Group V	10.73	

Basic Hourly Rates	Fringe Benefits

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

ASBESTOS WORKERS:
AREA I - Coal, Atoka and Bryan Counties
AREA II - Remaining Counties

BRICKLAYERS - STONEMANSONS:
AREA I - Wagoner, Cherokee, Adair, Muskogee, Sequoyah, Haskell, LeFlore, Latimer and Pushmataha Counties
AREA II - Hughes, Coal, Atoka and Bryan Counties
AREA III - Creek, Tulsa, Rogers, Mayes, Craign, Ottawa and Delaware Counties
AREA IV - Okfuskee, Okmulgee, McIntosh and Pittsburg Counties
AREA V - Osage, Washington and Nowata Counties
AREA VI - Pawnee County

CARPENTERS - MILLWRIGHTS & PILEDRIVERMEN:
AREA I - Okmulgee, Okfuskee, Pittsburg, Latimer, LeFlore, the western part of McIntosh County - the line running straight south from the east line of Okmulgee County, Haskell County south of Highway #9 and north one-half of Atoka County
AREA II - Pushmataha, Bryan and south one-half of Atoka County
AREA III - Coal and Hughes County
AREA IV - Tulsa, Rogers, Mayes, Creek, Craig and Delaware Counties
AREA V - Washington, Nowata and Eastern two-thirds of Osage County
AREA VI - Muskogee, Wagoner, Adair, Cherokee, Sequoyah, Eastern part of McIntosh and Haskell County north of Highway #9
AREA VII - Pawnee and western one-third of Osage County
AREA VIII - Ottawa County

CEMENT MASONS - POWER TOOL OPERATORS:
AREA I - Western one-third of Osage County
AREA II - Pawnee County west of a line running due north from the western boundary of Creek County
AREA III - Remaining Counties

ELECTRICIANS - CABLE SPLICERS:
AREA I - Cherokee, Adair, Muskogee, Sequoyah, McIntosh, Haskell, LeFlore, Latimer, Atoka and Pushmataha Counties
ZONE I - 30-mile radius from Post Office of the City of Muskogee
ZONE II - Area outside Zone 1
AREA II - Osage and Pawnee Counties west of Highway #18
AREA III - Bryan County
AREA IV - Washington, Nowata, Craign, Ottawa, Rogers, Mayes, Delaware, Creek, Tulsa, Wagoner, Okmulgee, Okfuskee, Hughes, Pittsburg, Coal, Osage and Pawnee east of Highway #18

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

ELEVATOR CONSTRUCTORS:
AREA I - Osage, Washington, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Pawnee, Creek, Tulsa, Wagoner, Cherokee, Adair, Okmulgee, Muskogee, and Sequoyah Counties
AREA II - Remaining Counties

GLAZIERS:
AREA I - Hughes, Coal, Atoka and Bryan Counties
AREA II - Ottawa and that portion of Craig County east of Vineta
AREA III - Remaining Counties

IRONWORKERS:
AREA I - Bryan County
AREA II - Remaining Counties

LABORERS:
AREA I - Creek, Tulsa, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Washington and Okmulgee Counties
AREA II - Wagoner, Cherokee, Adair, Muskogee, Sequoyah, Okfuskee, McIntosh, Haskell, LeFlore Counties
AREA III - Hughes, Pittsburg, Latimer, Coal, Atoka, Pushmataha and Bryan Counties
AREA IV - Osage, and Pawnee Counties
GROUP I - All digging and dirt work, firing of salamanders and portable space heaters; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tending lathers, masons, or plasterers; water boys, when used; carpenter tender.
GROUP II - All machine tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; oprs. of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers; mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle & potmen, tank cleaning, all pipe doping treating & wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies; all laborers screening sand, running sand drier, and feeding oper. sand-blasterer, except nozzle; and cutting torch oprs. in connection with laborers work; concrete greader.

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

LATHERS:
AREA I - Atoka, Coal and Hughes
AREA II - Ottawa County

PAINTERS:
AREA I - Pawnee, Osage, Washington, Nowata, Rogers, Mayes, Creek, Tulsa, Okfuskee, Okmulgee, Wagoner, Cherokee, Adair, Muskogee, Sequoyah, McIntosh, Haskell, Pittsburg, Latimer, LeFlore, and Pushmataha
AREA II -Hughes, Coal, Atoka and Bryan Counties
AREA III - Craig, Ottawa and Delaware Counties

PLASTERERS:
AREA I - Adair, Cherokee, Craig, Creek, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Rogers,Tulsa, Wagoner, Washington, and the northern and western portions of Sequoyah County north and west of a line running southwesterly from the northeastern corner of Sequoyah County including the town of Sallisaw.
AREA II - LeFlore County and the southern and eastern portions south and east of a line running wouthwesterly from the northeast corner of Sequoyah County

PLUMBERS - PIPEFITTERS:
AREA I - Ottawa, Delaware, Craig, Mayes, Nowata, Rogers, Tulsa, Creek and Osage and Pawnee Counties east of Highway #18
AREA II - Adair, Cherokee, Haskell, Latimer, LeFlore, McIntosh, Muskogee, Okfuskee, Okmulgee, Pittsburg, Sequoyah and Wagoner Counties
AREA III - Hughes, Coal, Atoka, Pushmataha and Bryan Counties
AREA IV - Osage and Pawnee Counties west of Highway #18
AREA V - Washington County

SHEET METAL WORKERS:
AREA I - Hughes and Coal Counties
AREA II - Remaining Counties

SOFT FLOOR LAYERS:
AREA I - Hughes, Coal, Atoka and Bryan Counties
AREA II - Remaining Counties

TILE LAYERS & TERRAZZO WORKERS:
AREA I - Bryan County
AREA II - Remaining Counties

TILE & TERRAZZO FINISHERS - TERRAZZO FLOOR MACHINE - TERRAZZO BASE MACHINE:
AREA I - Bryan County
AREA II - Remaining Counties

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

POWER EQUIPMENT OPERATORS:

GROUP I - All crane type equipment with 300' of boom or over (including jib).

GROUP II - All crane type equipment with 200-300' of boom (including jib).

GROUP III - All crane type equipment with 100-200' of boom (including jib, all tower cranes and all crane type equipment of 3 cu. yards or more).

GROUP IV - Side boom (booms 30' and over); Guy Derrick

GROUP V - Heavy duty mechanic, welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; pile-driver engineer, dragline, shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane, cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade); side boom (under 30').

GROUP VI - Fork lift (35' and over); dozer (engine hp 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller & compactors with dozer blade.

GROUP VII - Locomotive engineer; boring machine; tug boat; mixer 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. & under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment, generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of operating engineers; firemen; boiler operator, crushing plants; oiler distributor; pulvi-mixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man or large whirleys when and if required; operator for rotary drilling machines when operated from console or machines.

GROUP VIII - Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuous belt bulk handling; asphalt lay machine back end man.

GROUP IX - Greaser and tilt top trailer operator.

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'd):

TRUCK DRIVERS:

AREA I - Osage, Washington, Nowata, Craig, Ottawa, Pawnee, Rogers, Creek, Tulsa, Okmulgee, Okfuskee and Mayes and Wagoner Counties west of Highway #69.

GROUP I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.

GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yards.

GROUP III - Ready mix concrete truck; tractor-trailer and similar equipment.

AREA II - Bryan, Atoka, Pushmataha, Coal, Hughes, Pittsburg, Latimer, LeFlore, McIntosh, Haskell, Sequoyah, Muskogee, Cherokee, Adair, Delaware, and Mayes and Wagoner Counties east of Highway #69.

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards.

GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole truck, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV - Ready-mix concrete trucks up to but not including 3 yards.

GROUP V - Ready-mix concrete trucks up to but not including 3 yards and over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:

a - 6 months to 5 years 6%; over 5 years 8% of basic hourly rate plus seven paid holidays - A through G.

b - 6 paid holidays - A through E plus G

PAID HOLIDAYS:

A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Friday after Thanksgiving Day; G - Christmas Day

SUPERSEDEAS DECISION

STATE: OKLAHOMA

COUNTIES: Alfalfa, Beckham, Blain, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Tillman, Washita, Woods and Woodward.

DECISION NO. OK84-4050

DATE: Date of Publication

SUPERSEDES DECISION NO. OK83-4068, dated May 18, 1984 in FR 21252.

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories); water and sewage treatment plants and water sewage utility lines on the plant site in Canadian, Cleveland and Oklahoma Counties, Oklahoma.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
AREA I	$15.20	2.37
AREA II	17.76	2.33
AREA III	17.16	2.76
BOILERMAKERS	16.125	2.95
BRICKLAYERS, STONEMASONS:		
AREA I	15.48	2.23
AREA II	15.65	
AREA III	13.18	2.17
AREA IV	15.31	2.25
AREA V	14.50	1.40
AREA VI	14.74	2.15
AREA VII	15.48	1.67
CARPENTERS - AREA I		
Carpenters	13.75	2.04
Millwrights	14.25	2.04
Piledrivermen	14.25	2.04
Power saw operator	14.25	2.04
CARPENTERS - AREA II		
Carpenters	10.95	2.04
Millwrights	14.25	2.04
Piledrivermen	14.25	2.04
Power saw operator	14.25	2.04
CARPENTERS - AREA III		
Carpenters	11.25	1.74
Millwrights	11.50	1.74
Piledrivermen	11.50	1.74
CARPENTERS - AREA IV		
Carpenters	12.15	1.80
Millwrights	14.25	2.04
Piledrivermen	14.25	2.04
CARPENTERS - AREA V		
Carpenters	11.95	1.25
Piledrivermen	12.775	1.25
Millwrights	14.38	1.25
CARPENTERS - AREA VI		
Carpenters	12.35	1.59
Piledrivermen	12.85	1.59
Power saw operator	12.475	1.59
CARPENTERS - AREA VII		
Carpenters	12.45	1.37
Millwrights	12.95	1.37
Piledrivermen	12.95	1.37
Power saw operator	12.80	1.37
CARPENTERS - AREA VIII		
Carpenters	11.60	1.10
Millwrights	12.425	1.10
Piledrivermen	12.425	1.10
Power saw operator	11.85	1.10
CARPENTERS - AREA IX		
Carpenters	12.70	1.10
Millwrights	14.38	1.10
Piledrivermen	14.38	1.10
Power saw operator	12.95	1.10
CARPENTERS - AREA X		
Carpenters	12.88	.85
Millwrights	14.33	.85
Piledrivermen	14.33	.85
CEMENT MASONS - AREA I		
Cement Masons	$10.80	
Power tool operator	11.50	
CEMENT MASONS - AREA II		
Cement Masons	15.14	.76
Power tool operator	15.54	.76
CEMENT MASONS - AREA III		
Cement Masons	13.83	.85
Power tool operator	14.08	.85

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
AREA I - ZONE I	$15.60	9%+ 1.05
ZONE II	15.85	9%+ 1.05
ZONE III	16.10	9%+ 1.05
AREA II	14.90	3.5%+ 2.20
AREA III	14.05	3-1/4% +1.30
AREA IV	17.10	9%+.80
AREA V	15.90	3%+ 1.77
CABLE SPLICERS:		
AREA I - ZONE I	15.85	9%+ 1.05
ZONE II	16.10	9%+ 1.05
ZONE III	16.35	9%+ 1.05
AREA II	15.15	3.5%+ 2.20
AREA IV	18.81	9%+.80
ELEVATOR CONSTRUCTORS:		
Journeymen	14.665	2.465 +a
Helpers	70%JR	2.465 +a
Probationary Helper	50%JR	
GLAZIERS	15.72	.30
IRONWORKERS:		
AREA I	14.60	2.67
AREA II	13.625	2.95
AREA III	14.30	3.00
AREA IV	16.19	2.92
AREA V	15.29	1.14
LABORERS - AREA I:		
GROUP I	10.65	1.00
GROUP II	10.90	1.00
LABORERS - AREA II:		
GROUP I	8.95	1.00
GROUP II	9.20	1.00
LABORERS - AREA III:		
GROUP I	9.10	1.00
GROUP II	9.35	1.00
LABORERS - AREA IV:		
GROUP I	9.30	1.00
GROUP II	9.55	1.00
LABORERS - AREA V:		
GROUP I	9.25	1.00
GROUP II	9.55	1.00
LABORERS - AREA IV:		
GROUP I	5.35	
GROUP II	6.59	
LATHERS:		
AREA I	$14.25	1.74
AREA II	12.15	1.80
MARBLE MASONS, TILE SETTERS & TERRAZZO WORKERS	16.25	
MARBLE & TILE FINISHERS:		
AREA I	13.35	
TERRAZZO FINISHERS:		
AREA I	14.20	
TERRAZZO FLOOR MACHINE MAN:		
AREA I	14.50	
TERRAZZO BASE MACHINE MAN:		
AREA I	14.90	
PAINTERS - AREA I:		
Brush & Roller	9.90	1.03
Brush & Roller (Strl. steel)	10.15	1.03
PAINTERS - AREA I:		
Spray	10.55	1.03
Swing, stage, bosun chair	10.15	1.03
Taping & Bedding (hand tools)	10.20	1.03
Sandblasting	10.25	1.03
PAINTERS - AREA II:		
Brush	13.55	2.53
Spray under 30 ft.	14.05	2.53
Spray over 30 ft.	14.55	2.53
Paper hanging	14.55	2.53
Tapers using machine tools	14.05	2.53
PLASTERERS:		
AREA I	15.60	.95
AREA II	14.20	
PLUMBERS - AREA I:		
Mechanical contracts under $150,000.00	14.00	2.475
Mechanical contracts of $150,000.00 & over	15.50	2.475
PLUMBERS - AREA II	16.64	2.27
ROOFERS	12.40	1.39
SHEET METAL WORKERS	16.15	2.66
SOFT FLOOR LAYERS	13.95	2.03
SPRINKLER FITTERS	16.17	3.23
LINE CONSTRUCTION:		
Linemen	16.24	3-1/2 +1.00
Cable splicers	17.54	"
Hole digger operator, heavy equipment opr.	14.41	"
Line truck driver (winch operator)	12.69	"
Jackhammerman	11.50	"

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D):		
Powderman	$13.99	3-1/2+ 1.00
Groundman	10.31	"
Truck driver (flat bed, ton-half & under)	10.96	"
POWER EQUIPMENT OPERATORS		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
TRUCK DRIVERS - AREA I		
GROUP I	9.70	
GROUP II	9.40	
AREA II		
GROUP I	12.80	
GROUP II	12.85	
GROUP III	12.95	
AREA III		
GROUP I	10.43	
GROUP II	10.53	
GROUP III	10.63	
GROUP IV	10.58	
GROUP V	10.73	

	Basic Hourly Rates	Fringe Benefits

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

ASBESTOS WORKERS:
- AREA I — Harper, Ellis, Roger Mills, Beckham, Greer and Harmon Counties
- AREA II — Kay County
- AREA III — Remaining Counties

BRICKLAYERS - STONEMASONS:
- AREA I — Logan, Payne, Canadian, Oklahoma, Cleveland and McClain Counties
- AREA II — Harper, Woods, Alfalfa, Grant, Ellis, Woodward, Major, Garfield, Blaine and Kingfisher Counties
- AREA III — Harmon, Jackson, Tillman, Comanche, Cotton and Jefferson Counties
- AREA IV — Lincoln, Pottawatomie, Seminole, Pontotoc, Johnston and Marshall Counties
- AREA V — Kay and Noble Counties
- AREA VI — Caddo, Grady, Stephens, Garvin, Murray, Carter and Love Counties
- AREA VII — Roger Mills, Beckham, Greer, Dewey, Custer, Washita and Kiowa Counties

CARPENTERS - MILLWRIGHTS - PILEDRIVERMEN - POWER SAW OPERATORS:
- AREA I — Oklahoma, Logan, Canadian, Kingfisher, Pottawatomie, McClain, Cleveland, and Lincoln County south of the Turner Turnpike
- AREA II — Dewey, Custer, Washita and Blaine Counties
- AREA III — Caddo and Grady Counties
- AREA IV — Alfalfa, Grant, Major and Garfield Counties
- AREA V — Love, Murray, Carter, Pontotoc, Seminole, Johnston, Garvin and Marshall County west of highway #99
- AREA VI — Beckham, Jefferson, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa, Stephens and Tillman Counties
- AREA VII — Payne County, Northern Half of Lincoln County and Noble County east of Interstate 35 and south of Black Bear Creek
- AREA VIII — Woodward, Woods, Harper, Ellis and Roger Mills Counties
- AREA IX — Kay and Noble Counties north of Black Bear Creek and west of Interstate #35
- AREA X — Marshall County east of highway #99

CEMENT MASONS - POWER TOOL OPERATOR:
- AREA I — Kay County
- AREA II — Johnston and Marshall Counties
- AREA III — Ellis, Roger Mills, Beckham, Dewey, Custer, Grady, Carter, Oklahoma, Logan McClain, Washita, Blaine, Caddo, Kingfisher, Canadian, Cleveland, Garvin, Lincoln, Payne, Noble, Woodward Murray, Harper, Major, Woods, Alfalfa, Grant Garfield, Harmon, Greer, Kiowa, Jackson, Tillman, Comanche, Cotton, Stephens, Jefferson and Love Counties

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

ELECTRICIANS - CABLE SPLICERS:

AREA I	Oklahoma, Cleveland, Canadian, Grady, McClain, Garvin, Carter, Murray, Johnston, Pontotoc, Seminole, Pottawatomie, Lincoln, Logan, Kingfisher, Garfield, Grant, Alfalfa, Major, Blaine, Caddo, Washita, Custer, Dewey, Woodward, Woods, Harper, Ellis, Roger Mills, Beckham, Love and that portion of Payne County which is closer to Oklahoma City than Tulsa
ZONE I	The area within the twelve mile radius of the Main Post Office located in one of the cities listed as follows: Ada, Alva, El Reno, Enid, Moore, Arapahoe, Tecumseh, Norman, Midwest City, Ardmore, Oklahoma City, Stillwater, Sulphur and Tuttle Counties
ZONE II	The area between the twelve mile radius of the Zone I Post Office, except where Zone II intercepts another Zone I area
ZONE III	The area outside Zone I and Zone II
AREA II	Kay and Noble Counties
AREA III:	Comanche, Jackson Stephens, Harmon, Greer, Kiowa, Tillman, Cotton and Jefferson
AREA IV	Marshall County
AREA V	That portion of Payne County closer to Tulsa than Oklahoma City

IRONWORKERS:

AREA I	Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Custer, Dewey, Garfield, Garvin, Grady, Johnston, Kingfisher, Kiowa, Lincoln, Major, Logan, McClain, Murray, Noble, Oklahoma, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Washita, Woodward, and western Payne County to a line due north of state highway #177 and #33
AREA II	Beckham, Greer, Harmon, Jackson, Tillman, Cotton, Jefferson and Love Counties
AREA III	Harper and Ellis Counties
AREA IV	Marshall County
AREA V	Alfalfa, Grant, Kay, and Woods Counties

LABORERS:

AREA I	Logan, Canadian, Oklahoma, Lincoln, Cleveland and Pottawatomie Counties
AREA II	Harper, Woods, Alfalfa, Grant, Ellis, Woodward, Major, Garfield, Dewey, Blaine and Kingfisher Counties
AREA III	Roger Mills, Custer, Beckham, Washita, Caddo, Grady, McClain, Harmon, Greer, Kiowa, Comanche, Stephens, Garvin, Tillman, Cotton, Jefferson, Murray, Carter, Love and Marshall Counties
AREA IV	Kay, Noble and Payne Counties
AREA V	Seminole, Pontotoc and Johnston Counties
AREA VI	Jackson County

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

LABORERS (CONT'D):

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages of stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning windows; wrecking and razing of building and all structures; cleaning when the manis directly tendering, lathers, masons or plasters; common laborers.

GROUP II - All machine tools operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finishers laborer; work on swinging scaffold; all kettle and potmen, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines including concrete, creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or plants; all laborers screening sand, running sand drier, and feeding operator sand blasterer, except nozzle; and cutting torch operators in connection with laborers' work; concrete grader.

LATHERS:

AREA I	Oklahoma, Logan, Canadian, Kingfisher, Custer, Washita, Blaine, Pottawatomie, Dewey, Beckham, Caddo, Cleveland, Ellis, Garvin, Grady, Johnston, McClain, Murray, Noble, Pontotoc, Roger Mills, Seminole, Woodward, Lincoln County south of Turner Turnpike and Payne County up to and including the city of Cushing.
AREA II	Alfalfa, Grant, Garfield and Major Counties

PAINTERS:

AREA I	Harmon, Greer, Kiowa, Jackson, Tillman, Comanche, Cotton, Stephens, Jefferson, Carter, Love, Pontotoc, Johnston and Marshall Counties
AREA II	Remaining Counties

PLASTERERS:

AREA I	Ellis, Roger Mills, Beckham, Greer, Harmon, Jackson, Dewey, Custer, Washita, Kiowa, Tillman, Blaine, Caddo, Comanche, Cotton, Kingfisher, Canadian, Grady, Stephens, Jefferson, Logan, Oklahoma, Cleveland, McClain, Gargin, Murray, Carter, Love, Payne, Lincoln, Johnston and Marshall Counties
AREA II	Pontotoc, Pottawatomie and Seminole Counties

PLUMBERS - PIPEFITTERS

AREA I	Kay County
AREA II	Remaining Counties

MARBLE & TILE FINISHERS, TERRAZZO FINISHERS, TERRAZZO FLOOR MACHINE MAN, TERRAZZO BASE MACHINE MAN:

AREA I	Kay, Noble, Payne, Lincoln, Pottawatomie, Seminole, Pontotoc and Johnston

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

POWER EQUIPMENT OPERATORS:

GROUP I	All crane type equipment with 300' of boom or over (including jib)
GROUP II	All crane type equipment with 200-300' of boom (including jib)
GROUP III	All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV	Side boom (booms 30' and over); Guy Derrick
GROUP V	Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline, shovel; clamshell; backhoe (3/4 yd. and over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade); side boom (under 30')
GROUP VI	Fork lift (35' and over); dozer (engine hp 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller and compactors with dozer blade
GROUP VII	Locomotive engineer; boring machine; tug boat; mixer 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of operating engineers; firemen; boiler operator; crushing plants, oiler distributor, pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS (CONT'D):

POWER EQUIPMENT OPERATORS CONT'D):

GROUP VIII	Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuous belt bulk handling; asphalt lay machine back end man
GROUP IX	Greaser and tilt top trailer operator

TRUCK DRIVERS:

AREA I	Alfalfa, Beckham, Blaine, Caddo, Carter, Canadian, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson Johnston, Kingfisher, Kiowa, Logan, Love, Major, McLain, Murray, Oklahoma, Pontotoc, Pottawatomie, Payne, Roger Mills, Seminole, Stephens, Tillman, Washita, Wood and Woodward Counties
GROUP I	Truck drivers for heavy equipment such as lowboys, heavy winch and floats, heavy earth moving equipment such as dump trucks and euclids
GROUP II	Truck drivers and swampers, such as dump trucks, flat beds, stakebodies, and 3/4 and ½ ton pick-up trucks
AREA II	Kay, Noble and Lincoln Counties
GROUP I	Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver
GROUP II	3 tons or 4 yards up to but not including 4 tons or 6 yards
GROUP III	Ready mix concrete truck; tractor trailer and similar equipment
AREA III	Marshall County
GROUP I	Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, state bodies and buses
GROUP II	3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III	5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV	Ready-mix concrete trucks up to but not including 3 yards
GROUP V	Ready-mix concrete trucks 3 yards and over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

FOOTNOTES

a - 6 mos. to 5 yrs. 6%; over 5 years 8% of basic hourly rate plus seven paid holidays - A through G.

PAID HOLIDAYS:

A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Friday after Thanksgiving Day; G - Christmas Day.

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: Blount, Cherokee, Clay, Cleburne, Colbert, Cullman, DeKalb, Fayette Franklin, Jackson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph and Winston

DECISION NUMBER AL84-1030 DATE: Date of Publication

Supersedes Decision Numbers AL81-1130 dated December 30, 1980 in 45 FR 86188, & AL82-1087 dated December 10, 1982 in 47 FR 55588.

DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (Includes SEWER & WATER LINE CONSTRUCTION)

	Basic Hourly Rates	Fringe Benefits
Boilermakers	$16.20	3.375
Carpenters	8.25	
Cement Mason	6.48	
Ironworkers	6.82	
Electricians	8.75	.69
Laborers	4.87	
Piledrivermen	8.00	
Pipelayer	5.28	
Plumbers	11.48	
Power Equipment Operators		
Backhoe	7.42	
Bulldozer	7.49	
Driller Operator	9.20	
Front End Loader	5.50	
Power Equipment Operators (Cont'd)		
Motor Grader/Patrol	$7.50	
Mechanic	6.25	
Trencher	7.00	
Truck Drivers	4.50	
Wagon Drill	5.83	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 84-23590 Filed 9-6-84; 8:45 am]

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