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Friday
October 17, 1980

Highlights

68973 **Grant Programs—Housing** HUD/CPD announces competition for 1981 technical assistance to assess the potential for District heating and cooling system projects; proposals by 1–5–81

68920–68929 **Housing** FTC publishes rules regarding labeling and advertising of home insulation; various dates (5 documents)

68952 **Real Property Acquisition** USDA/FmHA proposes rule to provide relocation assistance to persons affected through displacement as a result of Federal or Federally financially assisted programs; comments by 12–16–80

69178 **Television** FCC proposes creation of a new low power television broadcast service; comments by 1–15–81 (Part V of this issue)

68990 **Computer Technology** Commerce/NBS announces standard for magnetic tape labels and file structure for information exchange as a Federal Information Processing Standard (FIPS); effective 10–19–81

68993 **Computer Technology** Commerce/NBS gives notice of proposing a Federal information processing standard for optical character recognition (OCR) character positioning

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Highlights

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

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

69048, 69049 **Continental Shelf** Interior/GS announces receipt of proposed development and production plans

69174 **Continental Shelf** Interior/BLM makes changes to Outer Continental Shelf Minerals and Rights-of-way Management regulations; effective 10–17–80 (Part IV of this issue)

69052 **Coal** Interior/BLM issues notice of coal lease offering by sealed bid

68948 **Administrative Practice and Procedure** Administrative Conference of the United States invites interested persons to comment by 11–5–80 on draft recommendations on intragovernmental communications in informal rulemaking proceedings

68936 **Government Employees** GSA prescribes procedures for Federal agencies in promoting ridesharing and reporting program achievements; effective 10–17–80; comments by 12–31–80

68971 **Antibiotics** HHS/FDA proposes to replace current procedure for evaluating dissolution test results for tetracycline hydrochloride tablets and capsules and oxytetracycline hydrochloride capsules; comments by 12–16–80

68931 **Old-age, Survivors and Disability Insurance** HHS/SSA provides benefits to young husbands and surviving divorced fathers; effective 10–17–80

69136 **Minimum Wages** Labor/ESA publishes basic hourly wage rates and fringe benefit payments for certain personnel on construction projects (Part III of this issue)

68941 **Motor Carrier** ICC adopts rules which govern operational practices of property brokers; effective 11–17–80

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69084 **Sunshine Act Meeting**

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69136 **Part III, Labor, ESA**
69174 **Part IV, Interior/BLM**
69178 **Part V, FCC**
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 722

1981 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to (1) determine and proclaim a national marketing quota and national acreage allotment for the 1981 crop of extra long staple cotton (referred to as "ELS" cotton), (2) apportion the national acreage allotment to States; and (3) establish the period for holding the national marketing quota referendum in order to find whether farmers are in favor of, or opposed to, the announced marketing quota for ELS cotton. The need for this rule is to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended (referred to as the "Act"). The latest available statistics of the Federal Government have been used in making determinations under this rule.

EFFECTIVE DATE: October 14, 1980.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, 202–447–7873.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum Number 1955 to implement Executive Order 12044, and has been classified "not significant".

The title and number of the federal assistance program that this notice applies to are: Title—Cotton Production Stabilization; Number 10.052; as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

A notice that the Secretary was preparing to make determinations with respect to these provisions of the Act was published in the **Federal Register** on August 8, 1980 (45 FR 52817) in accordance with 5 U.S.C. 553 and Executive Order 12044. Two comments were received. One recommended that the national acreage allotment be established at 145,000 acres, and the other recommended an allotment of at least 150,000 acres. After considering the comments received, and statutory requirements, it was determined that the national marketing quota for the 1981 crop of ELS cotton should be 195,000 bales and that the national acreage allotment for such crop should be 150,241 acres.

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required by statute to be made not later than October 15, 1980. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR §§ 722.558 to 722.561 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1981 crop of Extra-Long Staple Cotton. The material previously appearing in these sections under the centerhead "1980 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect with respect to the crop to which it was made applicable.

Final Rule

Accordingly, the regulations at 7 CFR 722.558 through 722.561 are amended to read as follows:

§ 722.558 National marketing quota for the 1981 crop of ELS cotton.

The marketing quota for the 1981 crop of ELS cotton is hereby proclaimed to be an amount of 195,000 standard bales determined in accordance with section 347(b) of the Act. The quota is based on the following data:

(a) Estimated domestic consumption, 1981–82	60,000
(b) Estimated exports, 1981–82	45,000
(c) Adjustment to assure adequate stocks	95,000
(d) Estimated imports 1981–82	−5,000
Total	195,000

§ 722.559 National acreage allotment for the 1981 crop of ELS cotton.

It is hereby determined and proclaimed that a national acreage allotment shall be in effect for the 1981 crop of ELS cotton. The amount of such national allotment is 150,241 acres, calculated by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield of 623 pounds per planted acre of ELS cotton for the four calendar years 1976, 1977, 1978, and 1979, in accordance with section 344(A) of the Act.

§ 722.560 Apportionment of national acreage allotment to the States.

The national acreage allotment of 150,241 acres is apportioned to the States in accordance with section 344(b) of the Act as follows:

State	State allotment (acres)
Arizona	65,352
California	544
Florida	187
Georgia	197
New Mexico	30,038
Texas	53,923

§ 722.561 National marketing quota referendum for the 1981 crop of ELS cotton.

The national marketing quota referendum for the 1981 crop of ELS cotton shall be held during the referendum period December 8 to 11,

1980, inclusive, by mail ballot in accordance with part 717 of this chapter.

(Secs. 301, 343, 344, 347, 375; 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended (7 U.S.C. 1301, 1343, 1344, 1347, 1375))

Signed at Washington, D.C., on October 10, 1980.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 80-32287 Filed 10-14-80; 9:52 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 275]

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 during the period October 19–25, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 19, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

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

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on October 14, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and 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). 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.

Section 910.575 is added as follows:

§ 910.575 Lemon Regulation 275.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 19, 1980, through October 25, 1980, is established at 195,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: October 15, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-32659 Filed 10-16-80; 12:10 pm]

BILLING CODE 3410-02-M

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7 CFR Part 948

Irish Potatoes Grown in Colorado, Area No. 2; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Colorado—Area No. 2 to be inspected and meet minimum grade, size and maturity requirements. The regulation will promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: November 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Final Impact Statement relative to this final rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Colorado Area No. 2 Potato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the September 12, 1980, **Federal Register** (45 FR 60446) inviting comments by October 11, 1980. None was received.

This regulation is based upon recommendations for a regulation through October 31, 1981, made by the committee at its public meeting in Monte Vista, Colorado, on August 21, 1980.

The grade, size, maturity and inspection requirements specified herein are similar to those issued during past seasons. They are necessary to prevent potatoes of low quality or less desirable sizes from being distributed to fresh market outlets. They will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area in order to provide the consumer with a more acceptable product.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments are permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed likewise are exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Potatoes for most processing uses are exempt under the legislative authority for this part.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the Colorado Area No. 2 Potato Committee, it is hereby found that the following

handling regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will already have begun by the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

7 CFR Part 948 is amended by adding a new § 948.384 as follows:

§ 948.384 Handling regulation.

During the period November 1, 1980, through October 31, 1981, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Minimum grade and size requirements.*

(1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Russet Burbank.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All other long varieties except Russet Burbank.* U.S. Commercial, or better grade, 2 inches minimum diameter or 4 ounces minimum weight, or U.S. No. 2 grade, 1⅞ inches minimum diameter.

(4) *All varieties.* Size B, if U.S. No. 1.

(5) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.* During September and October minimum maturity requirements shall be:

(1) *For U.S. No. 2 grade.* Not more than "moderately skinned."

(2) *All other grades.* Not more than "slightly skinned."

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to § 948.40(d) that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(e) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b) and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," "Size B," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (7 CFR 2851.1540–2851.1566), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to Section 8e of the act and § 980.1, *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the periods November 1, 1980, through June 30, 1981, and September 1, 1981, through October 31, 1981, shall meet the minimum grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

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

Dated: October 14, 1980, to become effective November 1, 1980.

D. S. Kuryloski,

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

[FR Doc. 32413 Filed 10–16–80; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

[Price Support Regs., Amdt. 2]

7 CFR Part 1464

Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) will allow producers of flue-cured tobacco who have designated warehouses that have had grading services suspended (usually for an irregularity) to designate another warehouse immediately. This is to prevent a producer from being punished for a warehouse irregularity.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Price Support and Loan Division, ASCS, Room 3754, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received. I have determined

that an emergency situation exists which warrants publication without an opportunity for a public comment period of this final action because producers need to market their tobacco as soon as possible without delay caused by warehouse irregularities. Comments will be received for 60 days after publication of this document. In compliance with the Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of the regulations contained in 7 CFR 1464.2 for need, currency, clarity and effectiveness, will be made within the next five years.

The title and number of the Federal Assistance Program that this final rule applies to is: (1) Title—Commodity Loans and Purchases; (2) Number—10.051.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

On September 5, 1980, the Flue-Cured Advisory Board met to discuss penalties relating to warehouse violations of tobacco sales schedules. The penalty for such violation is the suspension of inspection (grading) services for the warehouse. This effectively penalizes the warehouse because of the violation but penalizes as well producers who designated tobacco to the warehouse for sale. Price support is available only at warehouses where federal tobacco inspection service is available. Producers of flue-cured tobacco are required, as a condition for price support, to designate in advance the warehouse(s) at which they will market their tobacco. Current regulations provide for redesignation when a designated warehouse ceases to do business or ceases to have federal inspection or price support available. Temporary disruptions of warehouse inspection service, as where federal inspection service is temporarily withdrawn because of a violation by the warehouse, are not grounds for redesignation. This rule will now permit a producer who has designated flue-cured tobacco to a warehouses whose federal inspection service is temporarily withdrawn to designate his/her tobacco to another warehouse without loss of price support. So as not to penalize a producer who had become bound to a warehouse (in violation) through designation, the Board recommended that a producer be allowed to redesignate his tobacco immediately upon suspension of grading services for a warehouse. Accordingly, 7 CFR, Part 1464 is amended by revising § 1464.2 (e)(2)(iii) and (e)(2)(viii) to read as set forth below.

Final Rule

§ 1464.2 Availability of Price Support.

* * * * *

(e) * * *

(2) * * *

(iii) *When producer designations shall be made.* Producers must designate the warehouse(s) at which they will market their tobacco during a period which shall be announced beforehand by the local county ASCS office. The period for making designations shall be before May 31 each year. Producers who lease quota or whose farm is reconsituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse(s) at which their tobacco will be marketed according to procedures to be established by the Deputy Administrator, State and County Operations, ASCS. Producers who have designated warehouses which cease to operate or cease to have tobacco inspection or price support available may change their designations at any time after such occurrences. Producers who have designated warehouses whose inspection services have been temporarily suspended for any reason for the equivalent of at least one sales day may change their designation at any time after such occurrences. Redesignation (change in warehouse(s) designated or in pounds designated to a warehouse) or designations for farms which have not previously designated tobacco may be made by producers during the five business days ending on the first Friday of each month during the flue-cured tobacco marketing season. Such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

* * * * *

(viii) *Failure to comply with opening date and selling schedule by warehouses.* Warehousemen shall comply with opening date and selling schedule requirements as provided in 7 CFR 29.9406.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070 as amended (15 U.S.C. 714b, 714c); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423)

Signed at Washington, D.C., on October 7, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80–32198 Filed 10–16–80; 8:45 am]

BILLING CODE 3410–05–M

Food Safety and Quality Service

7 CFR Part 2859

9 CFR Parts 308, 381

Prohibition of New and Replacement Equipment and Machinery Containing Liquid Polychlorinated Biphenyls (PCBs)

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations, the Federal poultry products inspection regulations, and the Federal regulations governing the inspection of eggs and egg products by prohibiting the entry of new or replacement equipment and machinery containing liquid polychlorinated biphenyls (PCBs) in concentrations above 50 parts per million by weight of the liquid medium, onto the premises of any official establishment or plant regulated under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act. Capacitors containing less than 3 pounds of PCBs are exempted from the prohibitions. The purpose of this final regulation is to reduce the risk of adulteration of meat, poultry, and eggs with PCBs, a persistent and toxic environmental contaminant.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Bartie T. Woods, Director, Facilities, Equipment, and Sanitation Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5627. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under the USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044 and has been classified "significant."

Background

PCBs and Their Uses

PCBs or askarels[1] are a class of toxic industrial chemicals that have been widely used as fluids in electrical transformers and capacitors, and, to a lesser extent, in heat transfer systems and hydraulic equipment. They have been used in these applications due to their high chemical stability, low electrical conductivity, and their fire-resistant and heat transfer characteristics.

Health Risks Due to PCBs

Although PCBs were first manufactured and commercially marketed for industrial uses in 1929, they were not generally recognized as toxic until a widespread incident of PCB poisoning occurred in Yusho, Japan, in 1968. This occurred when 1,000–3,000 ppm levels of PCBs leaked from processing equipment and contaminated rice oil which was later sold to consumers. Within several weeks consumers were stricken with the so-called "Yusho" disease which was traced to the PCBs. Ultimately, 1,291 people were affected exhibiting such symptoms as skin disorders, digestive disturbances, jaundice, throat and respiratory irritations, swelling of joints, and severe headaches.

Prior to that incident, PCBs had caused reproductive problems in commercial mink. Those problems were first reported in 1965, but it was not until 1970, after satisfactory analytical procedures had been developed, that PCBs were identified as the contaminant. The source of the PCBs was found to be contaminated coho salmon from Lake Michigan which were fed to the mink.

Since those early occurrences, well-documented tests on laboratory animals have shown that PCBs can cause reproductive failures, gastric disorders, skin lesions, and tumors. Congress was also aware of the toxic effects of PCBs when the Toxic Substances Control Act was enacted in 1976. Scientific evidence was entered into the record at that time showing that PCBs were known to cause birth defects, miscarriages, and stillbirths, as well as skin eruptions, pigmentation of skin and nails, and eye malfunctions.

The levels of PCBs that produced the above-described effects substantially exceed the levels of PCBs that have been detected at any time in the United States food supply. However, the effects of PCB contamination are cumulative. PCBs are extremely stable and chemically persistent, and thus do not readily metabolize in living organisms. Rather, PCBs accummulate in the fatty tissues of humans and animals, and, as a result, there is ample evidence indicating that prolonged exposure to PCBs poses a health risk. The health hazards of exposure to PCBs are significantly greater at higher levels. In addition, the Environmental Protection Agency (EPA) has determined that PCBs are too widespread in the environment, including human and animal tissues, to establish a zero tolerance, or one that approaches zero. Studies conducted by the EPA indicate that the cut-off level of 50 ppm can provide adequate protection for human health and the environment, while providing a program which is technologically and practically enforceable.[2]

PCBs in Today's Environment

The most significant sources of free PCBs in the environment include discarded consumer or industrial products containing PCBs, atmospheric fallout, and spills associated with the use or transport of PCBs. In today's environment, PCBs are already widespread, as literally thousands of environmental and ecological samples from all over the world have been analyzed and reported to contain PCBs. PCBs have been detected, frequently at high levels, in a large number of fish and bird species inhabiting widely separated geographic areas. Since 1971 there have been at least nine separate incidents of PCB contamination of human food supplies, including meat, poultry, and eggs, as a result of accidental spills, improper disposal techniques, unintentional misuse of PCB-contaminated materials and equipment, and PCB liquid leaking from industrial equipment. These accidents have resulted in PCB contamination of several million pounds of food with a loss of over $10 million. No adverse human health effects have been directly attributed to any of these incidents. However, it is known that some of these foods containing PCBs have reached consumers.

Some of the more noteworthy incidents include the following:

In 1971, fish meal was contaminated in North Carolina when PCBs leaked from a heat-exchanger being used during pasturization of fish meal. Over 16,000 tons of fish meal were contaminated. The fish meal was used as an ingredient in finished feed for meat, poultry, and fish.

In 1977, fish meal prepared and stored at a warehouse in Puerto Rico was contaminated. A poultry firm that began to notice high chemical levels in tissue samples taken from its chickens conducted an investigation. The PCB source was traced to fish meal used in formulating the chicken feed. A fire in a warehouse had damaged transformers stored there, allowing PCBs to leak out. The contamination had not been detected before the fish meal was sold. As a consequence of this incident, 400,000 chickens and 15,000 dozen eggs were destroyed.

In 1979, the contamination of animal feed ingredients at a plant in Billings, Montana, occurred when PCBs leaked from a damaged, stored transformer into the plant's waste water treatment system and were recycled with animal fats into feed ingredients. The finished feed was then fed to poultry and livestock, contaminating meat, poultry, milk, eggs, soups, and bakery items. Contaminated products were distributed to 19 States and two foreign countries. Approximately 1.2 million chickens, 30,000 turkeys, 347 ducks, 7 million eggs, 5,500 hogs, 74,000 bakery goods, and 147,000 pounds of assorted animal feeds and feed ingredients were destroyed.

On December 20, 1979, there was a PCB leakage from a capacitor in a federally inspected hog slaughtering establishment in Iowa. Only the quick actions of plant officials and a Food Safety and Quality Service (FSQS) inspector in recognizing and containing the problem prevented another potentially massive contamination incident.

These incidents demonstrate that the use of PCBs in facilities involved in food production carries the potential for PCB contamination of enormous quantities of human food and therefore presents a substantial risk to human health. Large segments of the population could easily have been exposed to PCBs in all of the above incidents. Fortunately, in only one

[1] Askarel is a generic term for a group of high flash point synthetic chlorinated hydrocarbons used as electrical insulating media, and coolant, hydraulic and heat transfer fluid. All of the fluids listed below are askarels. This list is not complete but identifies the most likely encountered PCB fluids. Hyvol F or J (Areovox Industries), Chlorextol (Allis Chalmers Corp.), Asbestol (American Trans. Corp.), Clophen (Bayer (German)), Dykanol XF, XL, or L, ICA, FCA (Cornell Dubilier), Eucarel (Electrical Utilities Co.), Pyranol (General Electric), Askarel (Hevi Duty Electric), Kaneclor (Kanegafuchi (Japan)), Saf-T-Kuhl (Kuhlman Electric), Askarel or Elemex (McGraw Edison), Aroclor, Pydraul, Therminol FR (Monsanto Chem. Co.), Askarel (Niagra Transformer), Pyralene or Phenoclor (Pro Delec (France)), Diaclor (Sangamo Electric), Clorinol (Spraque Electric), Askarel (Standard Transformer), Askarel (Uptegraff), Noflamol (Wagner), Inerteen (Westinghouse). All transformer fluids manufactured before 1979 and classified as non-PCB have a 1-out-of-3 chance of containing over 50 ppm PCB contamination.

[2] See EPA proposal on PCBs published in the **Federal Register** on May 9, 1980 (45 FR 30989–30993).

case was there widespread human exposure.

U.S. Regulatory Control of PCBs

PCBs are currently regulated by the EPA, the Food and Drug Administration (FDA), and the FSQS of the United States Department of Agriculture (USDA).

a. EPA

The Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*) requires the EPA to control the manufacture, processing, and distribution in commerce, use, and disposal of PCBs. Section 6(e)(3) of the Act (15 U.S.C. 2605(e)(3)) provides that no person may manufacture any PCB after January 1, 1979, or process or distribute in commerce any PCB after July 1, 1979, except to the extent that EPA specifically authorizes or exempts such activity. Implementation of the January 1, 1979, ban was subsequently postponed until 30 days after completion of EPA rulemaking on May 31, 1979 (44 FR 31514). Subsequently, the July 1 ban was also delayed slightly. However, the May 31 rule prohibits all manufacturing, processing, and distribution in commerce, and use of PCBs after July 2, 1979, that is not specifically authorized or exempted by EPA.

The May 31, rule did provide certain exemptions to these bans. EPA generally exempted the use of PCBs in "totally enclosed" systems, such as those found in transformers and capacitors, and also authorized uses of PCBs in a few "non-totally enclosed" systems, such as in hydraulic systems and heat transfer systems.

EPA has, under the May 31 rule, established a 50 parts per million (ppm) "cut-off point" for the applicability of its rule to PCB mixtures. Any mixture which is more dilute than this, unless otherwise specifically provided, is not regulated as a PCB. EPA concludes that this cut-off limit provides adequate protection for human health and the environment while establishing a rule that can be effectively implemented.

b. FDA

The FDA similarly has taken steps to prevent the introduction of PCBs into the food supply. Specifically, current FDA regulations, which were promulgated in July 1973, restrict the industrial uses of PCBs in establishments that manufacture, handle, and store food intended for human consumption (21 CFR 110.40), and animal feed (21 CFR 500.45), and in establishments that manufacture food-packaging materials (21 CFR 109.15). These regulations provide that new equipment or machinery for handling or processing human food and animal feed and for manufacturing food-packaging materials shall not contain PCBs. Establishments that manufacture, handle, and store food intended for human consumption and animal feed, and establishments that manufacture food-packaging materials which had such equipment in place were also required to replace, by September 4, 1973, any PCB-containing fluids in such equipment, to the fullest extent possible with good manufacturing practices, with fluid that did not contain PCBs. The FDA regulations, however, specifically exempted electrical transformers and condensers which contain PCBs in sealed containers because at the time there were no known suitable replacement fluids for such equipment, and their use in FDA regulated establishments was not expected to result in direct contact with materials being processed.

C. USDA

Since July 1970, USDA has rejected new PCB-containing equipment or machinery which is proposed for food processing uses. Similarly, no proposed new chemical compound which contains PCBs has been approved since 1970 to be used in food processing machinery or equipment. These case-by-case determinations have been made under the equipment evaluation and chemical compound evaluation systems. In these systems, lists are maintained of approved chemicals and equipment, including the uses for which they are approved. However, no attempt has been made to reevaluate or eliminate equipment or machinery which was approved before 1970. In addition, approval has not been denied for equipment or machinery which is not likely to contact food.

The Proposal

On February 29, 1980, the USDA published in the **Federal Register** (45 FR 13471–13473) a proposal to prohibit the entry of new or replacement equipment and machinery containing liquid PCBs onto the premises of any official establishment or plant inspected under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act. The proposal applied to both food processing and non-food processing equipment and machinery (and replacement parts) which contain PCB liquid concentrations above 50 ppm by volume of the liquid medium. This proposal, with revisions, is being published as a final regulation in this document.

In addition, on May 9, 1980, the Department also proposed, in rulemaking activity with EPA [3] and FDA,[4] to prohibit all equipment or machinery and liquid with liquid PCB levels above 50 ppm by weight in federally inspected meat, poultry, and egg product establishments (45 FR 30980–30983). An exemption was included for capacitors containing less than 3 pounds of PCB liquid. The comment period on this proposal ends on November 4, 1980. It is not a part of this rulemaking.

Thus, the Department is currently engaged in a two-step rulemaking activity—first, to ban generally the entry of new or replacement PCB-containing equipment from official establishments and plants (this rulemaking) and second, to seek the removal of certain currently existing PCB-containing equipment from official establishments and plants. Because of the greater complexity of the latter question, it was decided to bifurcate the proposals.

Options Considered

Four options were considered before proceeding with the final rule. The first option was to take no regulatory action. The second option was to prohibit the introduction of any new or replacement equipment containing liquid PCBs onto the premises of FSQS inspected meat, poultry and egg products processing plants. The third option was to take no regulatory action at the present time, but to conduct an extensive information and education program aimed at the managers of all plants under FSQS jurisdiction. The fourth option was to require removal of existing PCB-containing equipment as well as prohibit the introduction of any new or replacement equipment into any of the aforementioned food processing establishments.

The first option was rejected since it did not deal with the current hazards to human health which PCBs pose. The fourth option is seen as the eventual goal of the Agency. However, more information must be gathered on the economic and technical impact of this option. The second option was selected as the best alternative at present since it will entail a minimal economic impact on the regulated industry while being an important first step leading to the eventual regulation of all PCBs in those food plants inspected by FSQS. It was decided, however, to proceed also with the information and education campaign contained in the third option. Using the booklet *Polychlorinated Biphenyls: An Alert For Food and Feed Facilities* (December 1979), which was prepared

[3] 45 FR 30989–30993.

[4] 45 FR 30984–30988.

by the EPA in cooperation with the USDA and the FDA, FSQS is attempting to reach managers of all plants under its jurisdiction who have decisionmaking authority relating to electrical equipment containing PCBs.

IRLG Liaison

PCBs are a toxic substance identified for regulatory coordination by the Toxic Substances Work Group of the Interagency Regulatory Liaison Group (IRLG). During the development stage of this regulation, representatives of the EPA, the FDA, the Consumer Product Safety Commission (CPSC), and the Occupational Safety and Health Administration (OSHA) were consulted.

FSQS, EPA, and FDA are also concurrently and cooperatively developing broader rulemaking which would address the present use of PCBs by the food, feed, pesticide, and fertilizer industries. However, in view of the particular problems of FSQS in regulating meat, poultry, and egg product facilities under its jurisdiction, this action is deemed appropriate at this time.

Comments

The Department received 22 comments on the proposal from individual consumers, meat and poultry packers, feed manufacturers who also process food, trade associations for utility companies, trade associations for meat and poultry processors, environmental groups, utility companies, an office equipment manufacturer, a public interest organization, a food consultant, and a State department of agriculture.

Eighteen comments favored the proposal citing several reasons. Most pointed out that PCBs should be excluded from food or feed facilities to prevent the possibility of contaminating the human food supply. Five of these comments urged the Department to go further and require the existing equipment to be removed as well. One commenter stated that his organization was legally challenging EPA's omission of mixtures with 50 ppm or less.

The comments, both pro and con, raised the following specific issues:

1. *Definition of the term "premises."* Several commenters pointed out that the term "premises" used in the proposed rule is not defined in the regulation.

The "premises" is the area identified on the plot plan by an applicant for Federal inspection. The plot plan is required by § 304.2(a)(1) of the Federal meat inspection regulations (9 CFR 304.2(a)(1)), § 381.19(a)(3) of the poultry products inspection regulations (9 CFR 381.19(a)(3)), and § 2859.146(b)(3) of the regulations governing the inspection of eggs and egg products (7 CFR 2859.146(b)(3)). Therefore, the Department believes that any additional definition is unnecessary.

2. *Interagency cooperation.* Three of the comments urged close cooperation between USDA, EPA, and FDA. One of these also stated that the Federal Energy Regulatory Commission and the Rural Electrification Administration should be involved in this rulemaking to encourage State public utility commissions to replace their transformers on utility poles located on the property of meatpackers and other manufacturers.

Industry respondents and an environmental group, which supported the proposal but indicated that it does not go far enough, have also encouraged cooperation between USDA and other agencies associated with the food and electric utility industries. Since November 1979, USDA has met with EPA and FDA to understand the problem of PCBs in the food industry and how to regulate them. The utility industry has been included in information releases on the PCB regulatory process.

3. *PCB educational campaign.* One comment praised USDA for the proposal, but regretted that it took such a major, costly accident as the one that occurred in Billings, Montana, to goad USDA into action. This comment also indicated the education campaign was a "smart" move.

4. *Removal or ban of existing PCB equipment.* One supporter of the proposed rule indicated concern about the eventual goals of FSQS stated in the fourth option—eventual removal of PCB-containing equipment and prohibition of introduction of any PCB equipment—considered in developing the proposed regulation. He thought it appropriate that FSQS is taking additional time to evaluate thoroughly the economic and technical aspects of removing existing PCB-containing equipment and/or PCB fluids from food processing facilities. He stated that the potential impact of such a regulation should be carefully studied before such a regulation is proposed. Others urged the Department to ban all existing PCB-containing equipment. As previously indicated, the Department is following a two-step approach in its rulemaking activities. A complete ban on PCB-containing machinery in all food processing facilities at this time might pose severe economic hardships on food companies and be disruptive to the Nation's food supply. All comments received concerning the removal of PCB-containing equipment and/or PCB fluids will be included in the administrative record of the other FSQS proposal (45 FR 30980–30983) and considered with the comments to that proposal.

5. *Case-by-case determination of replacement of PCB equipment.* One commenter indicated that his company could not afford the luxury of additional inflationary requirements which do not result in significant environmental benefits and that this amendment, as proposed, was such an inflationary requirement. He recommended that the proposal be modified to provide for a case-by-case evaluation of replacement equipment to determine if a real health hazard exists.

The Department points out that one PCB spill could easily exceed the cost of the entire changeover by the industries involved. It believes the possibility of additional transformer or capacitor spills to be real. Therefore, the Department believes it is appropriate to take this first step to ban new or replacement PCB-containing equipment from entry into official establishments and plants to lessen the possibility of a future PCB spill.

6. *Special exemptions for "low concentration" PCB.* One commenter suggested that because of the small amount of PCBs in some equipment in a concentration as low as 50–500 ppm, such equipment should be exempt from the rule unless the equipment is situated in such a manner that leakage would directly enter the food or food-related products. He further suggested that all PCB-contaminated equipment on the clearly defined premises of a food or feed facility could be inspected for leaks on a regular basis at established frequencies.

The primary concern is to prevent adulteration of food. In order to eliminate the possibility of adulteration, it is necessary to prevent the introduction of new or replacement PCB-containing equipment into the official establishment. The Department also notes that the EPA's definition of a PCB-containing fluid does, in effect, exempt low concentration fluids which contain PCBs in a concentration of less than 50 ppm.

7. *Determination of extent of PCB use in plants inspected by FSQS.* An industry commenter requested that the Department determine the extent of PCB use before final action is taken.

In view of the availability of non-PCB fluids for use in transformers, the Department believes that it is unnecessary to await survey results before adopting a prohibition of new and replacement equipment containing PCBs. However, as part of the two-step regulatory action, the Department has undertaken a survey of USDA-inspected official establishments. The Department

has received responses to the survey from over 90 percent of its inspected establishments and plants describing PCB-containing equipment. The Department considered this survey assessment of the problem. It is not aware of any more accurate data available for determining the extent of PCB use in the meat, poultry, and egg industries or any other industries. As a result of this survey, the Department has concluded that this regulation will result in minimal economic impact on industry.

8. *PCB equipment repair and maintenance.* An industry commenter asked if fluid addition to existing equipment in an official establishment would be considered as a repair action, and if not, how can the establishment control the types of fluid used when a contractor services the transformer.

The Department does not consider fluid addition to existing transformers, hydraulic systems, or heat transfer systems as new or replacement equipment or machinery, but rather routine servicing. Until regulations are adopted prohibiting existing PCB-containing equipment in official establishments, existing equipment may be topped off with fluids according to EPA regulations.

9. *Exemption for certain PCB equipment.* One commenter requested exemption for PCB equipment in vaults or in areas outside the immediate food processing operations.

This rule applies to all equipment located within the premises of an official establishment or plant, as previously described in this document. Prior to 1979, the Department believed that as long as the transformers and capacitors were outside the food processing area, the hazard of a PCB spill was adequately under control. With a series of spills from both active and idle equipment, this has proved to have been a false premise. Therefore, exemption is not provided for such equipment.

10. *Use of PCB equipment for "Useful Life."* Two commenters suggested that in-stock PCB-containing equipment be allowed to be used until its useful life is over.

The purpose of the regulation is to prevent additions of new or replacement PCB equipment to the meat, poultry, and egg establishments or plants in order to minimize the possibility of food contamination. No existing PCB-containing equipment is currently being required to be removed from an official establishment.

11. *Use of National Electric Code Standards for PCB equipment safety.* One industry commenter cited the National Electric Code (NEC) standards concerning special containment rooms as adequate protection against transformer or capacitor spills.

After reviewing the NEC, the Department has determined that the NEC does not appear to support the commenter's contention.

12. *Consideration of equipment which contains "small" amounts of PCBs.* Several commenters voiced opposition to the proposal stating that the proposed regulations were "overbroad." It was suggested that it was inappropriate to equate large electrical transformers and capacitors containing gallons of PCB fluids with electrical equipment which may contain, as components of power supplies and ballasts, small, totally enclosed capacitors with small quantities of PCBs. In addition, they argued that USDA regulations should be consistent with those of EPA for totally enclosed capacitors containing very small quantities of PCBs. Present and proposed EPA regulations would permit the use of PCBs in capacitors containing less than 3 pounds of fluid.

FSQS has determined that there would be little chance of contamination of the food supply from such totally enclosed capacitors. Not only do these capacitors contain relatively small amounts of PCBs, but the PCBs are usually absorbed by paper or other material within the equipment, which minimizes spillage if a leak occurs. Since these capacitors pose little risk of harm to human health, this final rule exempts totally enclosed capacitors containing less than 3 pounds of PCBs from the prohibitions.

Final Rule

After consideration of the comments, the Department has determined to proceed with the proposal as published but with modifications for one technical correction and to provide exemptions for capacitors which contain less than 3 pounds of PCBs. In the proposed regulations, the Department incorrectly described the 50 ppm cutoff as "by volume of the liquid medium." The proper scientific description is "by weight of the liquid medium." The language of the final regulation has been modified to reflect this minor technical correction. This correction does not affect the substance of the regulations. In addition, the section headings are being modified to reflect the addition of the new provisions.

Accordingly, the Federal meat and poultry products inspection regulations and the Federal regulations governing the inspection of eggs and egg products are amended as follows:

1. The following are the amendments to 9 CFR:

PART 308—SANITATION

a. Section 308.5 of the Federal meat inspection regulations (9 CFR 308.5) is amended by changing the section heading and amending the Table of Contents accordingly, and by adding a new paragraph (g) to read as follows:

§ 308.5 Equipment and utensils to be easily cleaned; those for inedible products to be so marked; evaluation of equipment and utensils; PCB-containing equipment.

* * * * *

(g) New or replacement equipment or machinery (including any replacement parts) brought onto the premises of any official establishment shall not contain liquid polychlorinated biphenyls (PCBs) in concentrations above 50 parts per million by weight of the liquid medium. This provision applies to both food processing and nonfood processing equipment and machinery, and any replacement parts for such equipment and machinery. Totally enclosed capacitors containing less than 3 pounds of PCBs are exempted from this prohibition.

(Secs. 5, 8, and 21, 34 Stat. 1260, as amended, 21 U.S.C. 605, 608, and 621; 42 FR 35625, 35626)

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

b. Section 381.56 of the Federal poultry products inspection regulations (9 CFR 381.56) is amended by changing the section heading and amending the Table of Contents accordingly, by designating the present text as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 381.56 Maintenance of samitary conditions and precautions against contamination of poultry products; PCB-containing equipment.

* * * * *

(b) New or replacement equipment or machinery (including any replacement parts) brought onto the premises of any official establishment shall not contain liquid polychlorinated biphenyls (PCBs) in concentrations above 50 parts per million by weight of the liquid medium. This provision applies to both food processing and nonfood processing equipment and machinery, and any replacement parts for such equipment and machinery, totally enclosed capacitors containing less than 3 pounds of PCBs are exempted from this prohibition.

(Secs. 7, 14, and 16, 71 Stat. 441, as amended, 21 U.S.C. 456, 463, and 465; 42 FR 35625, 35626)

PART 2859—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT OF 1970)

2. The following is the amendment to 7 CFR:

Section 2859.502 of the Federal regulations governing the inspection of eggs and egg products (7 CFR 2859.502) is amended by changing the section heading and amending the Table of Contents accordingly, and by adding a new paragraph (c) to read as follows:

§ 2859.502 Equipment and utensils; PCB-containing equipment.

* * * * *

(c) New or replacement equipment or machinery (including any replacement parts) brought onto the premises of any official plant shall not contain liquid polychlorinated biphenyls (PCBs) in concentrations above 50 parts per million by weight of the liquid medium. This provision applies to both food processing and nonfood processing equipment and machinery, and any replacement parts for such equipment and machinery. Totally enclosed capacitors containing less than 3 pounds of PCBs are exempted from this prohibition.

(Secs. 2–29, 84 Stat. 1620 *et seq.*, 21 U.S.C. 1031–1056; 42 FR 35625, 35626)

Done at Washington, D.C., on October 2, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-32101 Filed 10-16-80; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Changes in Rules of Practice Governing Summary Disposition on Pleadings

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations governing the authority of its presiding officers to consider motions for summary disposition of certain issues on the pleadings, 10 CFR Section 2.749, to permit parties to file answers supporting such motions.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce A. Berson, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492–7678.

SUPPLEMENTARY INFORMATION: Section 2.749 of the Commission's Rules of Practice for Domestic Licensing Proceedings, "Authority of presiding officer to dispose of certain issues on the pleadings," establishes a procedure whereby a party to an administrative proceeding may move the presiding officer to rule in that party's favor as to all or any part of the matters involved in the proceeding. The presiding officer will render the decision sought by the moving party if the filings in the proceeding show that there is no genuine issues as to any material fact and that the moving party is entitled to a decision as a matter of law.[1]

Section 2.749(a) now provides that "any other party may serve an answer *opposing the motion* [for summary disposition], with or without supporting affidavits, within twenty (20) days after service of the motion" (emphasis added). However, it has been a long-standing practice of the regulatory staff to file an answer to the motions of other parties for summary disposition—in support or in opposition, as appropriate.

The Commission has determined that the rule should be clarified to specifically permit responses in support of, as well as in opposition to, motions for summary disposition. Since important legal and procedural consequences flow from a presiding officer's grant or denial of a motion for summary disposition, the Commission believes that the views of its regulatory staff, as well as the views of other parties, should be considered and may be of substantial assistance to the presiding officer. Therefore, the Commission is clarifying § 2.749(a) to specifically permit responses from parties which support motions for summary disposition. The clarification will help ensure that the relevant issues are fully developed before the presiding officer rules on the motion and is consistent with the general policy of the Commission's Rules of Practice to encourage parties to express their views before adjudicatory tribunals. The amendment also harmonizes the Commission's summary disposition procedure with the provisions of 10 CFR 2.730(c), "Motions," which permit a party to file an answer in support of or in opposition to a motion filed by another party.

Since statements in support of a motion for summary disposition may raise facts and arguments not presented by the moving party and need not be served until the time at which an answer opposing the motion must be served, § 2.749(a) is also amended to permit the party opposing the motion to file a supplemental response in writing which addresses any new matters raised in supporting statements and not presented in the initial motion. The Commission expects its presiding officers to establish expeditious time limits on a case-by-case basis for the filing of any response to supporting statements, consistent with the requirements of fairness. This departure from Commission practice (which does not ordinarily allow further pleadings beyond the initial pleading and response thereto) is desirable here to avoid potential unfair surprise to parties opposing motions for summary disposition. No further supporting statements or responses thereto shall be entertained.

Because this amendment is not substantive and relates only to matters of agency procedure, notice of proposed rulemaking, and public procedure thereon, is unnecessary, and the amendment is effective on October 17, 1980 without the customary 30 days notice.

(5 U.S.C. 553(b) and 553(d))

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 2 are published as a document subject to codification.

Section 2.749 paragraph (a) is amended to read as follows:

§ 2.749 Authority of presiding officer to dispose of certain issues on the pleadings.

(a) Any party to a proceeding may, at least forty-five (45) days before the time fixed for the hearing, move, with or without supporting affidavits, for a decision by the presiding officer in that party's favor as to all or any part of the matters involved in the proceeding. There shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends that there is no genuine issue to be heard. Any other party may serve an answer supporitng or opposing the motion, with or without affidavits, within twenty (20) days after service of the motion. There shall be annexed to any answer opposing the motion a separate, short and concise statement of the material facts as to

[1] The procedure established in the rule may be used only for the determination of specific subordinate issues in any proceeding involving a construction permit for a production or utilization facility and may not be used to determine the ultimate issue as to whether a construction permit shall be authorized. Section 2.749(d).

which it is contended that there exists a genuine issue to be heard. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party. The presiding officer shall permit the opposing party an opportunity to respond in writing to new facts and arguments presented in any supporting statements which were not presented in the papers of the moving party. Any such response shall be served within such time limits as the presiding officer may establish and shall address only the new facts and arguments presented in the supporting statement. No further supporting statements or responses thereto shall be entertained.

* * * * *

(Sec. 161(p), Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1243, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841))

Dated at Washington, D.C. this 9th day of October, 1980.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 80-32543 Filed 10-16-80; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Staff compliance guidelines.

SUMMARY: The Staff of the Federal Trade Commission publishes its Staff Compliance Guidelines. The staff is publishing these guidelines to provide assistance to industry members regarding areas in which the staff believes that guidance should prove most helpful to industry members. The views expressed in the guidelines are those of the staff only; they have not been approved or adopted by the Commission and they are not binding on the Commission. However, the guidelines will serve as enforcement criteria for the staff in assessing compliance with the home insulation trade regulation rule.

DATES: Effective date: October 17, 1980. Written comments regarding the Staff Compliance Guidelines will be accepted until November 17, 1980.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments should be captioned: "Comment on Staff Compliance Guidelines—Home Insulation Rule, F.T.C. File 215–59."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

Note.—The following Guidelines will not appear in the Code of Federal Regulations.

Staff Compliance Guidelines

I. Introduction

The Federal Trade Commission's Trade Regulation Rule on Labeling and Advertising of Home Insulation (16 CFR Part 460) took effect on September 29, 1980.[1] The Commission's staff recognizes that it has a responsibility to provide industry members who are attempting to comply with the Rule with as much guidance as possible. To meet this responsibility, the staff is publishing these compliance guidelines. Although the guidelines do not amend or modify the Rule in any way, they should provide assistance to industry members. These guidelines will serve as enforcement criteria for the staff in assessing compliance with the Rule. Although the staff views these guidelines as final, it will accept written comments until November 17, 1980. If the staff believes it is appropriate to revise any portion of the guidelines based on the comments received, it will publish revised staff compliance guidelines in the **Federal Register.**

The guidelines cover those areas in which guidance should prove most helpful to industry members. If further compliance questions arise, they will be handled informally by the staff or, if appropriate, by the Commission, as provided for in Sections 1.1 through 1.4 of the Commission's Rules of Practice.[2]

II. When the Rule Takes Effect

The provisions of the Rule apply to home insulation materials produced and sold after September 29, 1980. However, the staff realizes that some insulation retailers and installers will have back stocks of materials, existing at the time of the Rule's effective date, which are not labeled in accordance with § 460.12 of the Rule. Enforcement action will not be recommended against retailers or installers who deplete such back stocks. On the other hand, packages that are not labeled in accordance with the requirements of § 460.12 of the Rule should not be accepted for resale to consumers after September 29, 1980. Similarly, all insulation sold by manufacturers after September 29, 1980 must be labeled in accordance with § 460.12 of the Rule. A manufacturer who delivers improperly labeled materials after this date will be in violation of the Rule, and the product should not be sold to consumers by the retailer or installer.

All advertisements for home insulation, other than those on television, must also comply with the requirements of §§ 460.18 and 460.19 of the Rule as of September 29, 1980. The staff recognizes that some non-complying ads may already be prepared and scheduled for publication and, if so, they will have to have been revised by September 29 unless unusual circumstances make this impossible. The staff notes that industry members have known since August of 1979 that the Commission was very likely to make effective the disclosure requirements for home insulation ads found in the Rule. In addition, the staff considers the advertising disclosures to be essential features of the Rule, and believes that even temporary exceptions from those requirements would frustrate the purposes of the Rule. The Commission has postponed the disclosure requirements for television advertisements pending completion of further rulemaking proceedings.

III. Coverage of the Rule

The Rule applies to the promotion and sale of thermal insulation products. It does not apply to other products with insulating characteristics, such as storm windows and doors, caulking, weatherstripping, insulated residential siding, or draperies.

The Rule applies to insulation sold for use in all types of residential structures, including old or new houses, condominiums, cooperatives, apartments, modular homes and mobile homes. It does not apply to insulation sold for use in commercial or industrial structures.

The Rule also requires disclosure of R-values and related information in sales of "new homes." The term "new homes" includes new houses, apartments, condominiums, cooperatives, modular homes and mobile homes.[3] It includes

[1] 45 FR 54702 (1980). The Rule and its Statement of Basis and Purpose were promulgated and published on August 27, 1979. 44 FR 50218 (1979).

[2] 16 CFR Part 1.1–1.4.

[3] The Commission has received petitions from three trade associations requesting that mobile homes be exempted from part or all of the requirements of the Rule. The Commission has temporarily stayed the effect of § 460.16 of the Rule, insofar as it requires sellers of mobile homes to

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old residential structures, such as condominium conversions, only when they are sold by someone who is engaged in the business of selling such property and insulation has been added as part of the conversion or other preparation for resale. It includes residential structures whether they are purchased as primary places of residence or for other purposes such as vacation homes. It does not include residences sold by private owners who have resided in the dwellings, and who are not otherwise engaged in selling such property.

IV. The R-Value Testing Requirements

Under § 460.5(a) of the Rule, all insulation products, except aluminum foil, sold in the residential market must be tested for R-value under either ASTM C–177, ASTM C–236, or ASTM C–518. If the "calibrated hot box" becomes an ASTM standard test method, it can also be used. The tests must be conducted at a mean temperature of 75 degrees Fahrenheit on the insulation material alone (excluding any air spaces).

Because of the nature of the products, there are specific additional requirements concerning the testing of aluminum foil, mass insulations with foil facings, polyurethane, polyisocyanurate, extruded polystyrene, and loose-fill insulations. These specific requirements and the required thickness for testing all insulation products are discussed in detail in this Section of the Guidelines.

A. Sample Thickness

Section 460.6 of the Rule, as it was published on August 27, 1979, would have required that all mass insulation materials be tested at representative thicknesses. This requirement would mean that such tests would have to be performed at a thickness at which the R-value per inch will vary no more than plus or minus 2% with increases in thickness. However, R-values for smaller thicknesses could be based on tests conducted on those thicknesses.

After the Commission issued the rule in August, 1979, new evidence was presented to the Commission which made it clear that a significant controversy existed regarding the essentially technical questions of the effects of thin-sample testing on R-value measurement and the present feasibility of a "representative thickness" testing requirement until calibration materials are available from the National Bureau of Standards (NBS). The Commission has temporarily stayed the effective date of the representative thickness testing requirement.[4] When thick calibration samples become available from NBS, scheduled to be in January, 1981, the Commission will be able to determine an effective date for the representative thickness testing requirement. The staff recognizes the industry's legitimate need for a reasonable amount of time following the development of these materials for the industry to bring itself into compliance with the rule's representative thickness testing requirement. The staff therefore intends to recommend that the Commission use its discretion to make the representative thickness testing requirement effective only after a reasonable period of time and to consult with interested parties on what period of time would be appropriate before any final decision is made.

Until the Commission makes the representative thickness testing requirement effective, staff will accept as satisfactory compliance testing of samples of mass insulation performed either at representative thicknesses or at 1.5 inches, as recommended by NBS.[5] For thicknesses of less than 1.5 inches, testing may be conducted at 1.5 inches or at the full thickness of the insulation.

After the Commission makes the representative thickness testing requirement in § 460.6 effective, the representative thickness of each insulation product will have to be determined. Under §§ 460.5(a) and 460.6 of the Rule, if the tested R-value per inch does not drop by more than two percent when the thickness of the test sample is increased, then the representative thickness has been achieved. If the material is produced at a thickness greater than the representative thickness, the R-values at these greater thicknesses may be extrapolated from the tested R-value per inch at the representative thickness. Similarly, the R-value per unit at the representative thickness may be extrapolated back to provide R-values at lower thicknesses, or the manufacturer may perform separate tests at those thicknesses. In any event, upward extrapolation of R-values based on tests of thin samples will not be permitted unless the manufacturer can produce test results which demonstrate that the product does not suffer from the thickness effect.

B. Reflective Foil Insulation and Foil Faced Insulation

Section 460.5(b) of the Rule requires that aluminum foil insulation systems with multiple sheets of reflective foil which are separated by air spaces, also called multi-panel foil insulation systems, be tested in accordance with ASTM C–236. The tests must be conducted at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit, and under the conditions which will be present in the recommended installations.

Section 460.5(c) of the Rule requires that the R-value of single sheet reflective foil insulation, installed in conjunction with an air space, be determined by first testing the emissivity of the foil insulation under ASTM E–408, or a comparable test procedure. The R-value of the foil insulation and its air space may then be derived from the appropriate table in the latest edition of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers' Handbook and Product Directory Fundamentals (hereinafter cited as "ASHRAE Handbook"),[6] based upon the tested emissivity of the foil, and upon the position and size of the air space it faces and the direction of heat flow in the manufacturer's recommended installation. The R-value derived from the table in the ASHRAE Handbook must be that for a mean temperature of 50 degrees Fahrenheit with a temperature differential of 30 degrees Fahrenheit. During the period of time since the Commission promulgated the rule, it has been brought to the staff's attention that use of the ASHRAE Handbook table method to determine the R-value of single sheet reflective foil insulations is only appropriate if the air space configuration and conditions found in actual installation meet the configuration and conditions specified in that table. Therefore, staff urges manufacturers of single sheet reflective foil insulation products which will not be installed according to the air space configuration and conditions listed in

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make disclosures to purchasers in sales contracts, pending a final decision by the Commission on the exemption petitions. The Commission denied the requests of the trade associations for a stay of other portions of the Rule which may apply to sellers of mobile homes.

[4] 45 FR at 54702–06. The Commission did not stay the prohibitions against making per inch R-value claims, because it believed that such claims would perpetuate the consumer's belief that R-values are linear, and thus would interfere with the effectiveness of the Rule after the stay of the representative thickness testing requirement is lifted *Id.* at 54704.

[5] NBS made this recommendation in a proposed Enforcement Bulletin it submitted to the Commission. Letter of November 19, 1979, to Michael Pertschuk, Chairman, Federal Trade Commission, from Ernest Ambler, Director, National Bureau of Standards, with attached proposed Enforcement Bulletin, FTC File No. 215–59, Document No. W–35.

[6] E.g., ASHRAE Handbook & Product Directory 1977 Fundamentals, at 22.12–22.13 (Table 2, Thermal Resistances of Plane Air Spaces), FTC File No. 215–59, Document No. H–170e.

the ASHRAE table to determine R-values by testing their products in accordance with ASTM C–236. The test should be conducted under the air space configuration and conditions which will be present when the product is installed according to the manufacturer's recommendations. For consistency, the test should be conducted at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit. The staff will not recommend enforcement action against those manufacturers who determine the R-values of their single sheet reflection foil insulation products according to tests conducted in accordance with ASTM C–236, in this manner. However, the staff may recommend further action by the Commission, such as an amendment proceeding, if necessary, if it appears that consumers are being mislead because sellers are basing R-value claims on the ASHRAE table for installations which do not meet the table's specifications.

The requirements for determining the R-values of mass insulations with reflective foil facings recognize that foil-faced insulation can be installed with or without an air space facing the foil. Section 460.5(d) of the Rule requires that the R-value of the mass insulation alone be determined according to one of the ASTM R-value test procedures cited in § 460.5(a). If the foil-faced insulation can also be used with an air space directly facing the foil, the insulation may also have a "system" R-Value, that is, both the mass insulation and the foil facing with the air space may contribute to the total R-value of the foil-faced product. Under § 460.5(d)(1) of the Rule, this system R-value may be determined according to ASTM C–236 by testing the faced insulation product under the air space configuration and conditions which will be present when the product is installed as recommended by the seller.

As an alternative, under § 460.5(d)(2), if the faced product may be installed, in normal construction[7] with the air space facing the foil and under the configuration and conditions specified in the ASHRAE Handbook table,[8] the R-value of the foil-faced insulation system may be determined by adding the tested R-value of the mass insulation to the appropriate R-value of the foil facing which is next to the air space, according to the ASHRAE table. Use of the ASHRAE table to determine the R-value of the foil-faced system is only appropriate if the air space configuration and conditions found in normal construction in the installation recommended by the Manufacturer meet the configuration and conditions specified in that table. Lastly, to use this method, the emissivity of the reflective foil facing must be determined by tests conducted under ASTM E–408, or a comparable test procedure, after the foil has been laminated or otherwise attached to the mass insulation.

C. Loose-Fill Testing at Settled Density

Section 460.5(a) of the Rule requires that both cellulose and mineral wool loose-fill insulations be tested for R-value at their settled densities. This requirement is necessary so that the R-values represented accurately reflect the performance of these insulations after settling has occurred.

For cellulose insulation, § 460.5(a)(2) requires that the settled density be determined according to the settled density test procedure required by General Services Administration (GSA) Specification HH–I–515D. The Commission has issued a formal opinion that the Rule requires use of the settled density test procedure which was required by Specification HH–I–515D on August 27, 1979, the date on which the Commission promulgated the Rule. That test procedure includes temperature and humidity cycling and is sometimes referred to as the Canadian drop test. Alternatively, the Commission has stated that it will permit the use of the settled density test procedure currently required by Specification HH–I–515D, commonly known as the cyclone shaker test.

Section 460.5(a)(3) likewise requires that loose-fill mineral wool insulation be tested for R-value at a density that fully reflects the effect of settling. However, because a single test procedure for accurately determining the settled density of loose-fill mineral wool insulation has not yet been generally accepted, the Rule does not specify the test procedure to be used. Studies are currently under way to develop such a test procedure. When a specific test procedure is developed and included in the GSA specification for loose-fill mineral wool insulation, manufacturers must use that test procedure. In the meantime, each manufacturer of loose-fill mineral wool insulation has the burden of ensuring that the method it uses to determine the settled density of its product is reasonable. Until GSA adopts a settled density test procedure for loose-fill mineral wool insulation, Commission staff will consider test methods used to determine the settled density of loose-fill mineral wool insulation on a case by case basis.

D. Aging of Cellular Plastics

Section 460.5(a)(1) of the Rule requires that R-value tests for certain cellular plastics insulation materials be performed on test samples that have been aged in accordance with GSA Specification HH–I–530A or another reliable aging procedure. The materials which normally are subject to this aging phenomenon are extruded polystyrene, polyurethane, and polyisocyanurate. The GSA Specification requires that test samples be aged for 90 days at 140 degrees Fahrenheit dry heat, in the form of intended use. While the staff believes that this procedure will produce R-values that reflect the material's performance over time, it has been suggested that the procedure might severely distort the qualities of some cellular plastics products. To account for this possibility, the Rule permits manufacturers to employ reliable alternative procedures of their own choosing that will produce R-values reflective of a fully aged cellular plastics product.

At present, the staff is unaware of a widely accepted alternative procedure for aging of these materials. As a result, compliance with the other "reliable" procedure alternative in the Rule will be assessed on a case-by-case basis. This assessment will be guided in part by other federal or state regulations in this area, but aging procedures suggested by individual manufacturers will also be considered. For example, a manufacturer who already has test samples which have been aged for several years and are now stable will be in compliance with the Rule, if the aging procedure was fair and reliable.

[7] In the Context, staff means that applications of a given product achieve the conditions specified in the table in the ASHRAE handbook in a significant proportion of applications in construction of residential housing.

[8] There are some obvious examples of applications of foil-faced insulation which will not create the type of airspaces described in the table in the ASHRAE Handbook, *i.e.*, "air spaces of uniform thickness bounded by plane, smooth, parallel surfaces with no leakage of air to or from the space." ASHRAE Handbook (1977), *supra* note 6. Two examples of constructions which do not meet these conditions follow. In the first example, foil-faced board stock is attached over the external siding of an existing house, with the foil facing outward. Residential siding is installed over the foil-faced board stock, creating a bevel-shaped air space between the foil facing and the siding. In the second example, an external brick veneer is installed to the outside of the external walls of a house. In laying the brick, a finger-sized air space is left between the brick and the internal portion of the wall so that the brick can be laid. The inner face of the air space is the foil facing of foil-faced board stock. Mortar oozes into the air space from between the bricks. Weep holes are left at the bottom of the wall for ventilation. Neither of these applications of foil-faced mass insulations creates an air space which meets the conditions specified in the ASHRAE Handbook table.

Regardless of the aging procedure used by the manufacturer, the tolerance provision discussed below will be applied by the staff. In other words, if the marketed product's R-value, when independently tested by the Commission, is more than 10 percent below the labeled R-value, the manufacturer will have violated the Rule, possibly because a faulty aging procedure was used. Thus, industry members who do not have complete confidence in their aging procedures or in the consistency of their production processes should consider whether their products will pass the tolerance test found in the Rule.

V. The Tolerance and Rounding Provisions

Section 460.8 of the Rule states that the actual R-value of any insulation sold to consumers cannot be more than 10 percent below the R-value shown on a label, fact sheet, ad, or other promotional material for the product. This 10 percent tolerance is designed to take the place of detailed quality control standards in the Rule. It does not give industry members a license to raise their R-values above levels determined through R-value testing. Rather, the testing sections impose two separate bases for potential liability. First, industry members will be liable if their stated R-values do not reflect the results of tests performed in accordance with the Rule. Second, if the Commission tests the manufacturer's product, the tested R-value must be within 10 percent of the R-value represented to consumers. If the product is not within this 10 percent tolerance, the manufacturer may be liable even if the stated R-value accurately reflects the manufacturer's test results. In that event, failure to pass the tolerance test indicates that the manufacturer's quality control procedures are insufficient to provide consumers with a reasonable assurance that they are receiving the represented R-value.

The tolerance provision also interacts with the requirement in § 460.11 of the Rule that R-values below 10 must be rounded to the nearest tenth, and that R-values of 10 or more may be rounded to the nearest whole number. This permissive rounding to the nearest whole number, however, will not exempt manufacturers from the Rule's 10 percent maximum tolerance. In other words, while a tested R-value of 12.5 could be rounded to 13, such rounding will consume a portion of the 10 percent tolerance allowed by the Rule. Under these circumstances, the manufacturer may wish to label the product with an R-value of 12.5, or even round the number down to 12, in order to benefit fully from the 10 percent tolerance allowed under the Rule.

VI. Point-of-Sale Disclosures

The Rule requires that R-values and related information concerning home insulation products be disclosed on product labels and on fact sheets available to the consumer at the point of purchase. Since §§ 460.12 and 460.13 of the Rule clearly specify the information that must be included on labels and fact sheets for each type and form of home insulation, those requirements are not repeated in these guidelines. However, this Section of the guidelines discusses some specific requirements about which staff has received inquiries from industry members or other interested parties.

A. Labels and Fact Sheets

1. Loose-Fill Insulations

a. *"Maximum net coverage area."* Sections 460.12(b) (2) and (3) and 460.13(c)(1) of the Rule require that the coverage charts on labels and fact sheets of all loose-fill insulations disclose the "maximum net coverage area" for the bag to obtain the represented R-value. The disclosure required is of the net area which the insulation contained in the bag will cover. For purposes of making the disclosure required by the rule, manufacturers may not consider joist areas or other construction features of a real or an imaginary house in determining the coverage area on labels and fact sheets, since these features vary from one house to another. Only the net coverage area will allow consumers to make cost comparisons between competing products.

On the other hand, the Rule does not prohibit manufacturers or installers from including on labels or other promotional materials, for illustration only to assist the consumer in computing net coverage area, information about the gross coverage area for the bag in specific applications. In such a case, the conditions presumed in any specific examples must clearly and conspicuously be disclosed in connection with the examples. However, since this information is different than that required in the coverage chart by the rule, it may not be described in the fact sheets.

b. *"Minimum thickness" and "minimum weight per square foot."* Sections 460.12(b) (2) and (3) and 460.13(c)(1) of the Rule require that labels and fact sheets for all loose-fill insulations state both "minimum thickness" and "minimum weight per square foot" for each R-value listed. However, all loose-fill insulations which settle may have thicknesses and densities which vary between the time of installation and the time at which the products have reached their settled densities. In fact, environmental conditions and the particular blowing machine used to install the product may result in a particular product having different thicknesses and weights per square foot immediately following installations under different conditions. In view of all these factors, the material information for consumers, and for the staff in enforcing the Rule, is the minimum thickness and minimum weight per square foot required for the represented R-value after all settling has taken place. It is only that thickness and that weight per square foot which will give the consumer the R-value purchased. The consumer can be assured of receiving the proper amount of insulation by comparing the number of bags installed to the settled density coverage area information appearing on the labels and fact sheets.

The Commission's staff recognizes that manufacturers may wish to provide further information regarding the thickness to be expected at the time of installation so that consumers have an additional and immediate measure to ensure that the proper amount of insulation has been installed. Therefore, manufacturers may disclose on labels the average thickness or a range of thicknesses to be expected at the time of installation. Of course, the manufacturer must have data which support the additional thickness(es) disclosed, such as valid studies of installed thicknesses under varying conditions. To ensure that the additional disclosure may not be used to mislead the consumer, the manufacturer should include an explanation that the additional information is provided for the consumer's guidance only, that the installed thickness will vary depending upon conditions at the time of installation, and that to obtain a specific R-value the insulation should not be applied over a larger area than that stated on the coverage chart. Since this additional information is different than that required in the coverage chart by the Rule, it may not be described in the fact sheets.

c. *Bags per 1,000 square feet for mineral wool.* When it issued the final rule, the Commission attempted to ensure that its requirements were consistent with requirements of other federal agencies. For example, the General Services Administration (GSA) has issued specifications for types of

thermal insulation products that may be purchased by the federal government or in connection with programs operated by the federal government. The GSA specifications require that specific R-value coverage chart information be included on labels. Therefore, for consistency the Commission adopted the coverage chart information required by the GSA specifications for loose-fill mineral wool and cellulose insulations.

At the time the Commission issued the rule, the GSA specification for loose-fill mineral wool insulation required that the coverage chart on the label contain a column disclosing the number of square feet the bag will cover for each total R-value listed on the label. It did not require that the label contain a column disclosing the number of bags required to cover one-thousand (1,000) square feet, although the GSA specification for loose-fill cellulose required both columns. GSA has revised its loose-fill mineral wool insulation specification to require the addition of a column disclosing the number of bags per one-thousand square feet of coverage area which are required to obtain the referenced R-value.

Under these circumstances, staff urges all manufacturers of mineral wool and other loose-fill insulations besides cellulose to add the column disclosing the number of bags per one-thousand (1,000) square feet to the coverage charts on labels and fact sheets. The disclosure is relevant to the coverage chart specifically required by § 460.12(b)(2) of the rule and is, in fact, merely a different way of stating information which that Section already requires to be disclosed on labels and fact sheets. The addition of the column also will make all other loose-fill insulation labels more consistent with those required by the Rule for cellulose.

2. Single Sheet Reflective Foil and Foil-Faced Insulations

The Rule allows manufacturers to use ASHRAE tables to determine the R-value of single sheet foil insulations. However, the ASHRAE values should be used only if normal applications,[9] and the applications recommended by the manufacturer, meet the conditions pertaining to the values which are specified in the ASHRAE Handbook, and if those conditions are clearly and conspicuously disclosed in the conjunction with references to R-values determined in that manner in labels, fact sheets and advertisements. For installations which do not meet the conditions specified in the ASHRAE Handbook,[10] manufacturers should determine the R-value based on tests conducted on the product under ASTM C–236 under the conditions in which it normally will be installed, and which the manufacturer recommends. In this situation too, the conditions necessary to obtain the R-value must be clearly and conspicuously disclosed in connection with the R-value claim.

The Rule recognizes that mass insulation materials with reflective facings can have two different R-values, depending on the manner of installation. If a faced product is installed without the benefit of an adjacent airspace, it has what can be termed its "material R-value." This is simply the R-value of the mass insulation material, as tested in accordance with the Rule. However, if the same faced product is installed in conjunction with an airspace, it may have what is called a "system R-value."

Sections 460.12(b) (5) and (6) and 460.13(c)(2) of the Rule require that the material R-value be disclosed on labels and fact sheets, and, under certain circumstances, in advertisements. Sections 460.12(b)(6) and 460.13(c)(2) allow the additional disclosure of the system R-value. However, since the system R-value will depend on a number of factors, such as the thickness and configuration of the air space and the direction of heat flow, the conditions under which the stated system R-value can be attained must be clearly and conspicuously disclosed in conjunction with any system R-value claim.

A mere description of this disclosure, such as "system R-value of 6.2," will not comply with the Rule. Similarly, the mere notation that the system R-value is "as per ASTM C236" or "as per ASHRAE Handbook" will not suffice. Rather, the Rule requires that the manufacturer specifically disclose the thickness of the airspace and the specific installation conditions and configuration necessary to obtain the system R-value.

3. Urea-Based Foam Insulations

Sections 460.13(d) and 460.18(e) of the Rule provide that when manufacturers of urea-based foam products make R-value claims, they have the option of disclosing that their products shrink or of reducing their R-value claims to account for shrinkage. If the latter option is selected, the specified disclosure otherwise required by the Rule may be omitted. Installers of urea-based foam products must, of course, follow the option of the manufacturer: if the manufacturer declines to reduce the product's R-value to account for shrinkage, then R-value claims by the installer must be accompanied by the disclosure in § 460.18(e) of the Rule.

Manufacturers who elect to lower the product's R-value to account for shrinkage must have "reliable scientific proof of the extent of shrinkage * * * and of its effect on R-value." In assessing whether the manufacture's substantiation constitutes "reliable scientific proof," the staff will be guided primarily by regulations of other government agencies which have developed expertise in this area. For present purposes, a manufacturer in compliance with the HUD Use of Material Bulletin No. 74 will be in compliance with this Rule. The staff also will monitor carefully the ongoing activities of the Department of Energy in the area of urea-based foam shrinkage. Finally, the staff will review individualized shrinkage data developed by a manufacturer for compliance with the "reliable scientific proof" standard. However, such individualized data will be carefully scrutinized in light of the above guides, particularly if the manufacturer contends that it shows an unusually small R-value reduction attributable to shrinkage. Thus, extensive testing by the manufacturer may be required, and idealized testing conditions or assumptions behind any calculations are to be avoided.

B. Availability of Fact Sheets

Section 460.13 of the Rule requires installation manufacturers to provide retailers and installers with fact sheets for their products. Sections 460.14 and 460.15 require retailers and installers to make the fact sheets available to consumers prior to purchase. The fact sheet requirements do not apply to new home sellers.

The Rule does not specify how many fact sheets the manufacturer must provide to retailers and installers. For example, if the retailer elects to use a binder or similar system, only one copy of each fact sheet may be needed. Retailers who wish to provide individual fact sheets to their customs will need a larger supply. In any event, the duties of the manufacturer on the one hand, and of the retailer or installer on the other, are independent. If the manufacturer does not supply any fact sheets, or if the ones supplied do not meet the requirements of the Rule, the manufacturer will have violated the Rule. In such a case, the retailer or installer should halt sales of the product until acceptable fact sheets are

[9] *Supra*, note 7.

[10] *Supra*, note 6.

provided.[11] If the manufacturer refuses to send out the fact sheets as required, the retailer or installer should immediately report this fact to the Commission staff.

As noted above, the Rule requires that retailers and installers make the fact sheets available to customers. Individual copies may be provided, or a binder or similar system may be used with consumers reading the sheets prior to purchase. With respect to installers, § 460.15 of the Rule is more exact: before customers agree to buy insulation, they must be shown the appropriate fact sheets and given an opportunity to read them. Thus, installers have a duty to bring the fact sheets to the customer's attention. Retailers, on the other hand, may often find it difficult to tell whether a consumer is simply browsing in the store or is considering an insulation purchase. As a result, the Commissioin has decided to let retailers select their own method for making fact sheets available, as long as customers "are likely to notice them." Retailers should pay especially close attention to the latter requirement. For example, if the store has a central counter or display area for insulation, the fact sheet display or a large, readable sign should be conspicuously placed in this location. If the store has neither of these, the fact sheet display or sign should be conspicuously placed at a location likely to be visited by an insulation customer, such as the home weatherization or improvement section. On the other hand, if the store has aisles or other locations at which home insulation is readily accessible to customers, it would be appropriate to place signs, indicating where the fact sheets are kept, at strategic places in each aisle or other location. As this last example suggests, more than one sign or display may be necessary, depending on the store.

C. Loose-Fill Insulation Disclosures by Installers

Section 460.17 of the Rule requires that installers give their customers a signed and dated contract, or a receipt, for the insulation they install. For loose-fill insulations, the contract or receipt must show the coverage area, thickness, and R-value of the insulation installed. Consistent with the requirements for labels, this information must be based on the settled density of the product, not its blown density, and upon the net coverage area of the insulation. Installers should use the data on the settled density coverage charts on the manufacturer's bag labels to make these disclosures.

If desired, installers may additionally disclose the average thickness or a range of thicknesses to be expected at the time of installation. The installer must have a reasonable basis to support the additional thickness(es) disclosed, such as valid studies of installed thicknesses under varying conditions. If the manufacturer has provided this additional information to the installer, the installer may rely on that information unless the installer knows or should know that the manufacturer does not have a reasonable basis for the additional information. To ensure that the additional disclosure will not mislead the consumer, the installer should include an explanation that the additional information is provided for the consumer's guidance only, that the installed thickness will vary depending upon conditions at the time of installation, and that to obtain a specific R-value the insulation should not be applied over a larger area than that stated on the settled density coverage chart on the label.

Installers may also disclose, for illustration only to assist the consumer in understanding the net coverage area disclosure, accurate information about the gross coverage area for the bag in specific applications, taking into consideration joist areas and other construction features. In such a case, the conditions presumed in any specific examples must clearly and conspicuously be disclosed in connection with the examples. As an alternative, the installer could use accurate measurements and computations based on the consumer's house to compare the gross coverage area in the consumer's house to the net coverage area of the insulation. To ensure that any additional disclosure will not mislead the consumer, the installer should include an explanation that the additional information is provided for the consumer's guidance only.

D. Disclosures by New Home Sellers

Section 460.16 of the Rule requires new home sellers merely to disclose the type, thickness and R-value [12] of the insulation installed, or to be installed, in each part of the dwelling. If no insulation is installed, or to be installed, that fact should be disclosed. The disclosures must be made in the sales contract. They can be made in a separate document if the document is incorporated into the contract by reference, and if the buyer has an opportunity to review the insulation-related disclosures at the time the contract is signed.[13] New home sellers do not have to display either insulation labels or fact sheets. In the case of multi-unit buildings, the disclosures are required only for the buyer's unit, although additional information is not prohibited by the rule.

Under the Rule, "new homes" means new houses, condominiums, cooperatives, mobile homes,[14] vacation dwellings, or other residential housing units. Previously existing residential structures, such as houses or condominiums, are "new homes" under the rule when they are sold by someone who is engaged in the business of selling such property and insulation has been added, or will be added, as a part of a conversion or other renovation in preparation for resale. However, sellers of these structures need not disclose R-value information about insulation already present in the structures before any renovation or conversion preparations began because they cannot be expected to have that information available.

On the other hand, the rule does not apply to sales of old houses, condominiums, cooperatives, mobile homes, vacation dwellings, or other residential housing units which have not been retrofitted with insulation as part of major renovation in preparation for sale. Since sellers of those types of structures cannot necessarily be expected to have available R-value information about insulation already present in the structures, a disclosure only that no insulation has been added would give the consumer little useful information.

Lastly, the rule does not apply to the sale of a house or other residential housing unit by an individual who merely is selling a previous residence, and who is otherwise not engaged in the sale of housing units.

VII. Disclosures in Advertisements and Other Promotional Materials

A. Advertising Audience

Section 460.18 of the Rule requires that specific R-value related information

[11] However, under § 460.8 of the Rule, retailers and installers can rely on the R-value data provided by the insulation manufacturer, unless they know or should know that the data is false or not based on the proper tests.

[12] Under § 460.8 of the Rule, a new home seller can rely on the R-value data provided by the insulation manufacturer, unless the new home seller knows or should know that the data is false or not based on the proper tests.

[13] By requiring that the disclosures be made in the sales contract, the Commission merely intended to require that the information be disclosed, and the sales contract provides the most convenient and appropriate vehicle for the disclosure. The Commission made no judgment concerning potential state law remedies for nondisclosure or inaccurate disclosure of R-values. 44 FR at 50232.

[14] *Supra*, note 3.

be disclosed in advertisements or other promotional materials which make certain representations. Section 460.19 of the Rule specifies requirements for ads or other promotional materials which claim or imply that insulation, or a combination of insulation products, or of insulation products and other insulating products, such as storm windows, can cut fuel bills or fuel use. The disclosure requirements in those sections apply only to advertisements and other promotional materials which will be, or may be, seen or read by consumers. Those disclosure requirements do not apply to ads or other promotional materials which are distributed solely to members of the insulation industry or to technical persons, such as architects or other professionals.

B. Nature of Advertisements

The disclosure requirements of § 460.18 of the Rule apply only to advertisements or other promotional materials which promote a specific insulation product. These disclosures are not required in advertisements or other promotional materials which merely promote insulation as an energy conservation practice without promoting a specific manufacturer, installer insulation product.

Section 460.19 requires that specific disclosures be made in connection with claims in advertisements or other promotional materials that savings can result from installation of insulation, or of insulation in connection with other products. Those disclosures are not required for savings claims made by an advertiser who is not engaged in selling insulation, or in the promotion of home insulation sales, a specific type or brand name of insulation, or a specific insulation installer.

C. Single Sheet Reflective Foil and Foil-Faced Insulations

As discussed in Sections IV.B. and VI.A.2, *supra*, the R-value of single sheet reflective foil insulation and the system R-value of foil-faced insulation which is installed with an air space facing the foil will depend upon the thickness and configuration of the air space and the direction of heat flow. Whenever an advertisement claims an R-value for single sheet reflective foil insulation or a system R-value for foil-faced insulation which is installed with an air space facing the foil, those conditions necessary to obtain the R-value must be clearly and conspicuously disclosed in conjunction with the claimed R-value.

D. Disclosures by New Home Sellers

The disclosure requirements of §§ 460.18 and 460.19 apply to advertisements or other promotional materials used by new home sellers which make claims about the insulation in the new homes, or that the insulation installed in the new homes can cut fuel bills or fuel use. However, since the Rule does not require that manufacturers furnish new home sellers with the fact sheets required by § 460.13 of the Rule, or that new home sellers make those fact sheets available to consumers, staff believes that it would be appropriate for advertisers to delete the reference to fact sheets from the disclosures required by §§ 460.18(a) and 460.19(b). Thus, the disclosure required by § 460.18(a) would be: "The higher the R-value, the greater the insulating power." The disclosure required by § 460.19(b) would be: "Savings vary Higher R-values mean greater insulating power."

VIII. Savings Claim Substantiation

The final area in which industry members may need guidance concerns substantiation for savings claims. Because savings vary from consumer to consumer, and because some consumers will save little or nothing through the installation of insulation, § 460.19(b) of the Rule requires that all specific and general savings claims include a disclosure pointing out that savings vary. Further, § 460.19(a) of the Rule requires that all savings claims must be founded on a "reasonable basis." This substantiation requirement applies not only to advertisements and other promotional materials which refer to a specific dollar amount or percentage of savings, but also to those which state in general terms that insulation can lower fuel bills or fuel use. Under this substantiation requirement, the method used to substantiate the savings claim must relate the R-value of the product being promoted, in the application represented, to the total heat flow resistance of a building wall, ceiling, or floor in the represented application.

A. Specific Savings Claims

Claims that insulation can reduce fuel bills by a specific dollar amount of percentage ordinarily will bear a heavy burden of substantiation. Generally, three kinds of substantiation will be acceptable in this area: (1) Actual tests of houses; (2) computer models which predict savings; and (3) standard engineering calculations which predict savings.

Although they are not specifically required by the Rule, tests of actual houses can generate very good substantiation for savings claims. Staff is aware of manufacturers who have the resources to conduct this type of substantiation and who have engaged in such testing. However, such tests must be carefully controlled. For example, two test houses, identical in all details of construction, exposed to identical weather elements and facing in the same direction, could be built near each other. For example, one house might be left uninsulated, while the second house might have a specified amount of attic insulation. To control for the influence of personal living habits, both houses would have to be unoccupied and have identical simulated occupancy conditions. Heating usage and bills can then be fairly compared between the two houses for a specified period of time, and a percentage of fuel use reduction due to the presence of the attic insulation can be determined. While this example is somewhat simplistic and given only for illustrative purposes, careful scientifically valid concurrent testing of this type would be acceptable substantiation for a specific savings claim under the Rule.

There are also a number of computer models currently in use which simulate the type of actual testing described above. While the reliability of these computer models should continue to improve with time and experience, not all computer models are necessarily accurate nor do they employ the same algorithms for producing results. For example, a model which fails to account for such factors as air infiltration, the geographic location of the theoretical house, or the presence of other construction features which can affect energy consumption should not be used to substantiate a savings claim.

Finally, standard engineering calculations for heat flow may constitute a reasonable basis for specific savings claims. For example, calculation procedures may be developed employing the principles given in Chapters 22, 23, and 25 of the ASHRAE Handbook.[15] Once again, such calculations should be used only if they take into account the various related factors that can influence fuel use and savings.

These examples of substantiation methods are given for illustration only. Specific methods used to substantiate savings claims will have to be evaluated on a case by case basis.

Available evidence demonstrates that the savings achieved by any individual consumer are attributable to a host of circumstances unique to that consumer.

[15] "ASHRAE Handook & Product Directory 1977 Fundamentals," *supra*, note 4 at Chapters 22, 23, 25.

As a result, tests or calculations which are used to substantiate claimed savings must control these variables to the greatest extent possible. An example of failure to control individual factors and, thus, of unacceptable substantiation, would be a testimonial by an individual consumer of the savings achieved after insulation was installed in his or her home. In this case, the amount of savings could easily have been influenced by purposeful or inadvertent changes in the living habits of the occupants. Thus, testimonials or similar comparisons of occupied houses before and after the addition of insulation are inherently unreliable, and do not constitute a reasonable basis for any claimed savings.

B. General Savings Claims

General savings claims, like specific savings claims, must be founded on a reasonable basis. Staff believes that all general savings claims imply that the level of savings is more than *de minimus*. However, the level of substantiation required for a general savings claim will sometimes be less than that required for a specific savings claim, depending upon the nature of the claim being made. For example, a claim such as "reduce fuel bills" may be substantiated on the basis of government studies or reports that conclude that adding insulation can result in significant savings for many consumers.

On the other hand, general savings claims which suggest significant savings may require substantiation of the type required for specific savings claims. For example, an ad which states that insulation can "slash fuel bills" clearly implies that substantial savings can be achieved. Thus, advertisers who make general savings claims should choose the language of the claim with care, if they wish to avoid the burden of substantiation associated with specific savings claims.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32517 Filed 10-16-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation; Partial Stay for Mobile Home

AGENCY: Federal Trade Commission.

ACTION: Notice of temporary partial stay of trade regulation rule insofar as it applies to sales of mobile homes.

SUMMARY: The Federal Trade Commission has temporarily stayed § 460.16 of its trade regulation rule on labeling and advertising of home insulation insofar as it applies to mobile home sellers, pending a final decision by the Commission on petitions for exemptions filed by three trade associations representing mobile home manufacturers and retailers. The Commission has denied the associations' requests to stay other portions of the Rule. The temporary partial stay is effective immediately.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney (202) 724-1515, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Three trade associations—the National Manufactured Housing Federation, Inc., the Manufactured Housing Institute, Inc. and the Indiana Manufactured Housing Association, Inc.—have filed petitions on behalf of mobile home manufacturers and retailers requesting exemptions from the Commission's trade regulation rule on labeling and advertising of home insulation ("the Rule"). The Rule went into effect September 29, 1980. Pending the Commission's final determination on their respective petitions for exemptions, the three petitioners requested that the rule be stayed as to the mobile home industry.

All three petitioners requested that the mobile home industry be exempted from § 460.16 of the Rule. Section 460.16 requires "new home" sellers, including mobile home sellers, to disclose in the sales contract the type, thickness and R-value of any insulation installed in each part of the home. The petitioners asserted that the rule is unnecessary as to mobile homes because construction standards issued by the Department of Housing and Urban Development effectively achieve the same result. Petitioners also argued that R-value information is not appropriate as a tool for comparison shopping in the mobile home area because nearly all such homes have identical insulation due to certain design characteristics.

The Commission has not yet made an initial decision on the merits of the exemption petitions. When an initial decision is made, it will be published in the **Federal Register**, and written public comments will be accepted in accordance with § 1.16 the Commission's Rules of Practice. However, upon review of the petitions for a stay, and weighing the likelihood of success on the merits, the harm to the petitioners, and the public interest, the Commission has determined that a temporary stay of Section 460.16 of the Rule insofar as it applies to mobile home industry members, pending the Commission's decision on the petition, is appropriate. The Commission has denied the request of the petitioners to stay all other portions of the Rule insofar as they apply to the mobile home industry.

Copies of the petitions for stays and exemption from the rule, and the Commission's response, have been placed on the public record of this proceeding.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32513 Filed 10-16-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation; Technical Amendments

AGENCY: Federal Trade Commission.

ACTION: Technical amendment to rule.

SUMMARY: The Commission is publishing a technical amendment to its trade regulation rule on labeling and advertising of home insulation. The amendment is effective immediately. The technical amendment would permit manufacturers of home insulation to include on the fact sheets required by § 460.13 any disclosures which are required by federal laws or regulations to be made on the fact sheet. The amendment corrects a drafting error which would have made it a violation of the rule to include such required disclosures on the fact sheets.

DATES: Although the technical amendment is effective October 17, 1980 the Commission will receive public comment on the amendment until December 16, 1980.

ADDRESSES: Send comments to Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Submissions should be captioned "Comment—Technical Amendment to Home Insulation Rule."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1514.

SUPPLEMENTARY INFORMATION:

I. Text of the Amendment Voted by the Commission

Accordingly, Chapter I of 16 CFR is amended by revising the first four sentences in the first paragraph of § 460.13 to read as follows:

§ 460.13 Fact Sheets.

If you are a manufacturer, you must give retailers and installers fact sheets for the insulation products you sell to them. Each sheet must contain what is listed here. You can add any disclosures that are required by federal laws, regulations, rules, or orders. You can add any disclosures that are required by state or local laws, rules, and orders, unless they are inconsistent with the provisions of this regulation. Do not add anything else.

* * * * *

II. Reasons for the Amendment

Due to a drafting error in the first paragraph of Section 460.13, the rule prohibited manufacturers from putting disclosures on the fact sheet which were required to be placed there by other federal laws, regulations, rules, or orders. This result clearly put manufacturers in an unfair position: by complying with one set of federal regulations, the manufacturer violates another set of federal regulations. This result is clearly not in the public interest, nor is it consistent with the Commission's intent. Accordingly the Commission has amended § 460.13 to make clear that manufacturers may put disclosures on the fact sheet if required to do so by other federal laws, regulations, rules or orders.

This problem was brought to the Commission's attention by a proposed rule of the Consumer Product Safety Commission, published at 45 **Federal Register** 39434. Under this proposed rule, manufacturers of urea-formaldehyde foam insulation would be required to include certain health risk disclosures on the fact sheet required by Section 460.13 and 460.15 of the home insulation rule. The Commission is unaware of any other federal rules, regulations, laws, or orders which would require disclosure on the fact sheet required by the Commission's home insulation rule. However, the Commission believes the amendment is necessary to prevent confusion arising out of any future federal regulations.

The amendment does not create any substantive change in the rule. The purpose of the provision prohibiting additional disclosures was to prevent manufacturers from vitiating the required disclosures by making distracting promotional claims. The exception to this prohibition for state and local laws, rules, and orders was intended simply to clarify the preemptive effect of the required disclosures. These purposes are not changed by the amendment. Since other federal actions are equally valid with the Commission's actions, the only effect of the amendment is to remove any potential liability for manufacturers who comply with other federal regulations, rules, laws, or orders. It does not change any duties required by the rule.

III. Public Comment

To avoid any potential conflict with other federal laws, regulations, rules, or orders, the Commission has decided that the amendment should take effect immediately upon publication. The Commission finds that notice and public procedure relating to the amendment are unnecessary and would cause a delay which would be contrary to the public interest. Therefore, under § 1.15 of the Commission's Rules of Practice, the Commission has decided to dispense with the procedures set out in subpart 1 of those Rules. However, the Commission will accept public comment on the amendment action for a period of sixty days following publication in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32514 Filed 10-16-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 460

Labeling and Advertising of Home Insulation; Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment on tentative decision to grant a partial exemption to manufacturers of a type of flat roofing insulation, and notice of a temporary stay of a labeling requirement for those manufacturers.

SUMMARY: The Federal Trade Commission has tentatively decided to grant an exemption to manufacturers of a certain type of flat roofing insulation product used almost exclusively in industrial and commercial applications from the requirement in § 460.12 of its trade regulation rule on labeling and advertising of home insulation (16 CFR Part 460). Section 460.12 requires all home insulation products to be labeled with certain information about R-value. The Commission has tentatively decided to deny an exception to such manufacturers from any other provision of the rule. The Commission has issued a temporary stay of § 460.12 insofar as it applies to this particular type of roof insulation.

DATES: Effective date: September 29, 1980.

Written comments regarding the Commission tentative decision to grant the exemption in part, and deny it in part, will be accepted until November 17, 1980.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Proposed Partial Exemption for Flat Roof Insulation Manufacturers—Home Insulation Rule."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 31, 1980, the Commission announced that the effective date of the rule would be September 29, 1980 (45 FR 54702).

Two trade associations (The Society of the Plastics Industry, Inc. [SPI] and Thermal Insulation Manufacturers Association [TIMA]) and four manufacturers (Apache Building Products Company, GAF Corporation, Grefco Inc., and the Celotex Corporation) have petitioned the Commission for an exemption from the rule for rigid roof insulation which is used in flat built-up roofs. TIMA and the four manufacturers have requested an exemption from all requirements of the rule, including those requiring disclosures in advertisements (§ 460.18 and § 460.19). SPI has limited its request to an exemption from the labeling requirements of § 460.12 of the rule.

The labeling provisions of § 460.12 require all home insulation products to be labeled with basic information about the type of insulation, its R-value, and the coverage of the product. This type of information was intended to provide consumers purchasing the product directly or through installers with basic information needed to evaluate the thermal performance of the insulation product.

The trade associations and manufacturers state that more than ninety-five percent of the rigid roof insulation boards are used in commercial or industrial buildings, and are therefore not covered by the rule. However, some of the product is used in multi-family residential buildings, such

as flat-roof apartment or condominium buildings. The trade associations and manufacturer state that they have no way of knowing which products will be used in residential applications, and which will not. If they are required to label their products which go into residential use, they would be required to assume the unnecessary expenses of labeling every package of insulation even though only a small percentage of them would be used in residential applications. Furthermore, since the product can only be used in large, multi-family, flat-roof buildings, they argue that the labeling information is unnecessary because the product will be selected by an architect or another professional, not the consumer.

The Commission has tentatively decided to grant an exemption to manufacturers of this type of rigid flat-roof insulation board from the requirement in § 460.12 that all insulation materials which might be used in homes be labeled with R-value information.

However, the Commission has tentatively decided to deny the request for an exemption from any other provision of the rule. Section 460.13, in combination with §§ 460.15 and 460.16, requires unstallers to show consumers a fact sheet with essential R-value information and new home sellers to disclose in sales contracts the R-value of the insulation installed in the home. The compliance costs of producing the fact sheets in the few instances where the rigid insulation board is in fact used in residential applications are modest. These sections ensure that, when necessary, consumers will get the relevant R-value information.

Similarly, the Commission has tentatively decided to deny the petition for exemption from any of the rule's provisions which require disclosures in advertising. Most of the claims made for the rigid roof boardstock are made in professional publications, and would therefore not be covered by the rule. But where claims are directed at consumers, there would appear to be no reason to treat claims for this product any differently than other insulation performance or energy savings claims.

In view of the Commission's tentative determination to exempt manufacturers of rigid roof insulation from the labeling requirements of § 460.12, the Commission has tentatively stayed § 460.12 insofar as it applies to such manufacturers, pending a final Commission decision on the exemption request.

The petitions from the two trade associations and the four manufacturers have been placed on the public record and are available for public inspection. They have been filed as documents V–Z through V–7 in FTC file number 215–59.

By Direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32515 Filed 10-16-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 460

Labeling and Advertising of Home Insulation; Trade Regulation Rule; Partial Exemption for Perlite Insulation

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment on tentative decision to grant a partial exemption to manufacturers of perlite insulation, and notice of conditional stay of that disclosure requirement for perlite insulation manufacturers.

SUMMARY: The Federal Trade Commission has tentatively decided to grant an exemption to manufacturers of perlite insulations which have an inverse relationship between R-value and density or weight per square foot from the requirement in §§ 460.12(b)(2) and 460.13(c)(1) of its trade regulation rule on labeling and advertising of home insulation (16 CFR Part 460) that manufacturers of perlite insulation disclose minimum weight per square foot for R-values listed on labels and fact sheets. This partial exemption from the rule would be conditioned upon the alternative disclosure of the maximum weight per square foot for each R-value listed. The Commission has issued a conditional stay of the requirement that manufacturers of perlite insulation disclose minimum weight per square foot for each R-value listed on labels and fact sheets, pending a final Commission decision on the exemption. The stay is conditioned on the alternative disclosure of the maximum weight per square foot for each value listed.

DATES: Effective date: September 29, 1980.

Written comments regarding the Commission's tentative decision to grant the conditional exemption will be accepted until November 17, 1980.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Proposed Partial Exemption for Perlite Insulation Manufacturers—Home Insulation Rule."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 31, 1979, the Commission promulgated a trade regulation rule on the labeling and advertising of home insulation (44 FR 50218). On August 15, 1980, the Commission announced that the effective date of the rule would be September 29, 1980 (45 FR 54702).

The Perlite Institute Inc. petitioned the Commission for an exemption from one of the disclosure requirements in the Rule. Section 460.12(b)(2) of the Rule requires that all loose-fill insulation products other than cellulose be labeled with the following coverage chart information for R-values of 11, 19 and 22: the minimum thickness, maximum net coverage area, and minimum weight per square foot. Section 460.13(c)(1) requires that the same coverage chart information be disclosed on fact sheets available to consumers through retail stores and installers.

The Perlite Institute requested that the Commission exempt manufacturers of perlite insulation from the requirement that they disclose minimum weight per square foot. The requirement in the rule was based on the fact that, for most residential insulation, as the density or weight per square foot decreases, the R-value decreases. Thus, the Rule requires that coverage charts specify the minimum weight per square foot necessary to obtain the labeled R-value.

Specifically, the Perlite Institute requested that the requirement that perlite insulation labels and fact sheets disclose minimum weight per square foot to achieve each R-value be changed to require a maximum weight per square foot disclosure. In support of this request, the Institute has submitted technical publications which show that, contrary to other insulations, as the density or weight per square foot of perlite insulation increases, R-value decreases. A lighter density perlite will have a higher R-value than one with a heavier density installed at the same thickness. Thus, according to the Perlite Institute, unlike other loose-fill insulations covered by the rule, if perlite insulation is installed at a density greater than the weight per square foot listed on the label, the consumer will not receive the labeled R-value.

The Commission has tentatively decided to grant an exemption to manufacturers of perlite insulations which have an inverse relationship between R-value and density or weight per square foot from the requirement in

§§ 460.12(b)(2) and 460.13(c)(1) of the rule that they disclose minimum weight per square foot for R-values listed on labels and fact sheets. This exemption would be conditioned upon the alternative disclosure in labels and fact sheets of the maximum weight per square foot for each R-value required to be listed. The Commission believes that, if the facts alleged by the Perlite Institute Inc. are accurate, the conditional exemption would be in the public interest and should be granted. Therefore, the Commission has conditionally stayed the requirements of §§ 460.12(b)(2) and 460.13(c)(1) of the rule insofar as they require manufacturers of perlite insulations which have an inverse relationship between R-value and density or weight per square foot to disclose minimum weight per square foot on labels and fact sheets, respectively, pending a final Commission decision on the exemption request. The stay is conditioned upon the alternative disclosure of the maximum weight per square foot for R-values required to be listed on fact sheets and labels.

The petition from the Perlite Institute Inc., dated November 19, 1979, plus attachment, has been placed on the public record and is available for public inspection. It has been filed as document number U-1 in FTC File number 215-59.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32516 Filed 10-16-80; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1212

Safety Standard Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Corrections of final rule.

SUMMARY: This notice corrects a typographical error in the final consumer product safety rule requiring oxygen depletion safety systems (ODS) for unvented gas-fired space heaters. Also corrected is the equation in which the typographical error occurs. The correction of the equation does not change its substance but is merely for the purpose of clearly identifying the English and metric equivalent units of the equation.

EFFECTIVE DATE: These corrections are effective on October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley Morrow, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6453.

These corrections apply to FR Doc. 80-28597 appearing in the **Federal Register** of September 17, 1980 at page 61933.

At present, there is a typographical error in the equation for corrected oxygen at shutdown at the top of the page; the term,

$\frac{460 + 70}{450 + T_R}$ should read, $\frac{460 + 70}{460 + T_R}$.

At present, the English and metric equivalents of the equation for corrected oxygen at shutdown are depicted side by side. To avoid any possible confusion concerning the algebraic interpretation of the equation, this notice, in addition to correcting the typographical error, also more clearly separates the English and metric units. The substance of the equation remains precisely the same.

§ 1212.6 [Corrected]

Accordingly, the equation which now appears in the first six lines of the second and third columns of page 61933 should be deleted and the following substituted therefor:

ENGLISH UNITS

$$\text{Corrected oxygen} = \text{measured oxygen} \times \frac{460 + 70}{460 + T_R} \times \frac{P_B}{30}$$

Where

T_R = ambient temperature (°F) in test room at shutdown.

P_B = barometric pressure (inches Hg) in test room at shutdown.

METRIC UNITS

$$\text{Corrected oxygen at shutdown} = \text{measured oxygen at shutdown} \times \frac{273 + 21}{273 + T_R} \times \frac{P_B}{101}$$

Where

T_R = ambient temperature (°C) in test room at shutdown.

P_B = barometric pressure (kPa) in test room at shutdown.

Dated: October 10, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-32298 Filed 10-16-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Certain Steel Products From Italy; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Revocation of countervailing duty order.

SUMMARY: This notice is to advice the public that the Department of Commerce is revoking the countervailing duty order on certain steel products from Italy because of the termination of an injury investigation by the United States International Trade Commission.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-5505).

SUPPLEMENTARY INFORMATION: A notice entitled "Countervailing Duties: Certain Steel Products from Italy," T.D. 69-113, was published in the **Federal Register** of May 6, 1969 (34 FR 7328). The notice stated that the Treasury Department had determined that exports of certain steel products from Italy were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act"). Accordingly, imports of the following nine product groups of certain steel products from Italy were subject to countervailing duties:

1. Steel pipes for penstocks, even armored, of the type used for hydroelectric installations;
2. Cables, ropes, plaits and such in iron or steel wire, with or without core of other materials, excluding those insulated for electricity; except as stated below:

Galvanized steel wire rope;
Stainless steel aircraft cable;

3. Staples in strip form;

4. Nails of iron or steel;
5. Bolts and nuts of iron or steel except as noted below:
Galvanized nuts;
6. Rivets of iron or steel;
7. Forged steel grinding balls;
8. Wheels and axles of vehicles for railroads; and
9. Iron and steel constructions and their parts, such as pieces for bridges, steel structural works, gates, frameworks, etc., not galvanized.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) ("the TAA") went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce ("the Department"). Under section 104(b)(1) of the TAA, the United States International Trade Commission ("the ITC") is required to review countervailing duty orders issued under section 303 of the Act applicable to merchandise from "countries under the Agreement" upon the request of a government or group of exporters of merchandise covered by the order. Italy is considered a "country under the Agreement".

On March 27, 1980, the ITC received two requests for review of the countervailing duty order on certain steel products from Italy. Pursuant to the ITC's notification to the Department of the requests for an injury review of the order, the Department issued instructions to suspend liquidation of entries of the affected merchandise made on or after April 3, 1980, as required by section 104(b)(3) of the TAA.

On June 13, 1980, the ITC was notified by letter that United States Steel Corporation, the original petitioner in the proceeding, wished to withdraw its petition pursuant to section 704(a) of the Act.

The ITC published a notice on July 9, 1980 in the **Federal Register** (45 FR 46262) proposing termination of its investigation under section 104(b)(1) and requesting public comment by August 8, 1980. No adverse comments were received in response to the ITC notice. As a result, the ITC published a notice in the **Federal Register** of September 4, 1980 (45 FR 58732) accepting the withdrawal of the petition and terminating its investigation, pursuant to section 704(a) of the Act. The ITC informed the Department that "the termination of this investigation has the same effect as a determination of no material injury or threat thereof."

As a result, the Department hereby revokes T.D. 69–113 with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after April 3, 1980.

The Department will instruct Customs officers to proceed with liquidation of all such entries of the subject merchandise without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to such entries. Entries, or withdrawals from warehouse, for consumption made before April 3, 1980 are subject to countervailing duties as set forth in T.D. 69–113.

The Table in section 355, Annex III, Commerce Regulations (19 C.F.R. 355, Annex III, 45 FR 4949), is amended under the country heading "Italy", by deleting from the column headed "Commodity", the words "Certain steel products"; from the column headed "Treasury Decision", the numbers "69–113", and from the column headed "Action", the words "Bounty declared-rate".

This revocation and notice publication are in accordance with section 104(b)(4(B) of the TAA (93 Stat. 192, 19 U.S.C. 1516).

October 10, 1980.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-32380 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance; Benefits for Young Husbands and Surviving Divorced Fathers

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The Social Security Administration is issuing final regulations that provide benefits to young husbands and surviving divorced fathers. These regulations reflect court decisions, discussed in the Supplementary Information section of this preamble, which eliminate two gender-based distinctions in the Social Security Act.

EFFECTIVE DATE: These regulations are effective October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Clara Powell, 4–H–10, West Highrise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, 301–594–7459.

SUPPLEMENTARY INFORMATION: On June 10, 1980, these regulations were published in the **Federal Register** (45 FR 39309), as a Notice of Proposed Rule Making with a 60-day comment period. We received two substantive comments which are discussed under the heading Discussion of Comments.

Background

On December 29, 1978, the U.S. District Court for the Eastern District of Pennsylvania held in *Cooper* v. *Califano* that sections 202(b)(1) and 202(c)(1) of the Social Security Act, taken together, unconstitutionally deny husband's benefits solely on the basis of gender. Section 202(b)(1)(B) of the Act provides benefits for a wife under 62 who has in her care a child entitled to child's benefits on the worker's earnings record; section 202(c) provides no comparable benefit for husbands.

On January 26, 1979, the U.S. District Court for the Western District of Kentucky held in *Yates* v. *Califano* that the Act unconstitutionally denied benefits to a surviving divorced father. Section 202(g)(1)(F) of the Act provides benefits to a surviving divorced mother who has in her care her natural or adopted child entitled to child's benefits on the worker's earnings record; the Act provides no comparable benefits for surviving divorced fathers.

Those court decisions were based largely on *Weinberger* v. *Weisenfeld*, 420 U.S. 636 (1975), in which the U.S. Supreme Court held that section 202(g) was unconstitutional to the extent that it provided benefits for a widow with a child in her care, but not to a widower with a child in his care. As that case did not deal with the rights of young husbands or surviving divorced fathers, we did not apply the *Weisenfeld* decision to them. However, the Solicitor General determined that the issues raised by the *Cooper* and *Yates* decisions are substantially the same as those decided in *Weisenfeld*. He, therefore, declined to appeal *Cooper* and *Yates* to the Supreme Court. Subsequently, the Attorney General, as the law requires him to do, advised the Congress of the decision not to appeal. Since the *Cooper* and *Yates* decisions are final and there will be no further judicial proceedings on the specific issues raised in the two cases, we have decided that they should be implemented on a nationwide basis by issuing regulations. The final regulations will provide benefits beginning with the month of the pertinent decisions.

Final Regulations

The final regulations provide the following new benefits.

(a) Husband's benefits will be provided for the husband of a person entitled to old-age or disability benefits if he is under age 62, has in his care a child entitled to child's benefits on his wife's earnings record, and otherwise meets the conditions of entitlement to husband's benefits.

(b) Father's benefits will be provided for the surviving divorced husband of an insured worker if he is otherwise qualified and has in his care his natural or adopted child who is entitled to child's benefits on his deceased divorced wife's earnings record.

Effective Date

These final regulations are effective with the month of the district court decisions. In the case of benefits for husbands under age 62 with a child in their care, the regulations provide for benefits effective with the month of December 1978. In the case of benefits for surviving divorced husbands with a child in their care, the regulations provide for benefits effective with the month of January 1979.

Discussion of Comments

We received two substantive comments on the NPRM published on June 10, 1980 (45 FR 39309). A summary of the comments and our responses follow:

1. *Implementation of the regulations.* One commenter believes that the regulations will rectify past practices of discrimination in the social security program. The commenter recommends that we retrain our personnel to handle these claims and that we inform potential claimants of benefits to which they are entitled. We have alerted operating personnel to these changes and have issued instructions regarding the processing of these cases. These actions were taken to insure prompt recognition and correct handling of these cases.

With respect to informing potential claimants of the benefits to which they may be entitled, the public information materials we prepare and distribute are now being revised and will include references to these new benefits. Additionally, information about these benefits has been highlighted in our monthly publication, "Social Security Information Items."

2. *Effective date.* A commenter asked that the effective date of the regulations providing benefits for surviving divorced fathers be changed to reflect a court order issued April 2, 1980 by the U.S. District Court for the Western District of Washington in *O'Connor v. Califano.* The court order in *O'Connor* directs us to pay father's benefits to claimant's who had applied for benefits as surviving divorced fathers and were denied by us after August 13, 1978. As a result of this order, which has become final since publication of our NPRM, claimants who were denied by us after August 13, 1978 will be awarded father's benefits based on their earlier application, assuming the other conditions of entitlement are met. Our operating instructions are being revised to implement the *O'Connor* order. For persons not included in the class of claimants affected by the *O'Connor* order, the payment of benefits to individuals as surviving divorced fathers will be based on these regulations, and the earliest possible month of entitlement under the regulations is January 1979, the date of the decision in *Yates.* Since all claimants concerned will be paid in accordance with the legal directives applicable to their case, it is unnecessary to change the effective date of the regulation.

Accordingly these regulations are adopted without change as set forth below.

(Secs. 202, 205, 216, 223, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1362, as amended, 64 Stat. 510, as amended, 70 Stat. 815, as amended, 49 Stat. 647, as amended; 42 USC 402, 405, 416, 423, and 1302)

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

Dated: September 22, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: October 10, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 404 of title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.330(c) is revised to read as follows:

§ 404.330 Who is entitled to wife's or husband's benefits.

* * * * *

(c) You are 62 years old or older or you are the insured's wife or husband and have "in your care," as defined in §§ 404.348–404.349, a child who is entitled to child's benefits on the insured's earnings record and the child is either under 18 years old or disabled; and

* * * * *

2. Section 404.340 is amended by revising the section heading and the material preceding paragraph (a) and revising paragraphs (a)(1), (b), and (d) to read as follows:

§ 404.340 Who is entitled to mother's or father's benefits as a surviving divorced spouse.

You may be entitled to mother's or father's benefits as the suviving divorced wife or the surviving divorced husband of someone who was fully or currently insured when he or she died. You are entitled to these benefits if—

(a) * * *

(1) You are the mother or father of the insured's child; or

* * * * *

(b) You apply for these benefits; or you were entitled to wife's or husband's benefits for the month before the insured died;

* * * * *

(d) You are not entitled to widow's or widower's benefits, or to an old-age benefit that is equal to or larger than the full mother's or father's benefit; and

* * * * * *

[FR Doc. 80-32360 Filed 10-15-80; 8:45 am]

BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Certification of True Copies

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority regarding certification of true copies and use of the Department seal. The amendment adds officials in the Office of Management and Operations, Office of Public Affairs, and the Executive Director of Regional Operations to the delegates and otherwise corrects titles.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by revising § 5.22 to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) The following officials are authorized to certify true copies of or extracts from any books, records, papers, or other documents on file within the Food and Drug Administration, to certify that copies are true copies of the entire file, to certify the complete original record, or to certify the nonexistence of records on file within the Administration, and to cause the seal of the Department to be affixed to such certifications:

(1) Associate and Deputy Associate Commissioners.

(2) The Director of the Executive Communications Management Staff of the Office of Policy Coordination.

(3) Executive Officer, Office of the Commissioner.

(4) The Director of the Division of Management Systems and Policy of the Office of Management and Operations and the Chief of the Dockets Management Branch of that Division and Office.

(5) The Director of the Freedom of Information Staff of the Office of Public Affairs.

(6) The Executive Director and Deputy Executive Director of Regional Operations; and the Assistant Director for Administration, the Associate Director and Deputy Associate Director for Field Support, and the Associate Director for Federal-State Relations of the Executive Director of Regional Operations.

(7) The Director and Deputy Director of the Bureau of Drugs; and the Director of the Office of Planning, Evaluation, and Management, the Associate Director and Deputy Associate Director for Compliance, and the Directors of the Divisions of: Methadone Monitoring; Drug Product Quality; Drug Labeling Compliance; and Drug Manufacturing of that Bureau.

(8) The Director and Deputy Director of the Bureau of Foods; and the Associate Director for Planning and Operations, the Associate Director for Compliance, and the Directors of the Divisions of: Regulatory Guidance; Food Technology; and Retail Food Protection of that Bureau.

(9) The Director and Deputy Director of the Bureau of Radiological Health; and the Associate Director for Management and Systems and the Director of the Division of Compliance of that Bureau.

(10) The Director and Deputy Director of the Bureau of Biologics; and the Associate Director for Compliance and the Director of the Division of Compliance of that Bureau.

(11) The Director of the Bureau of Veterinary Medicine; and the Executive Officer, the Associate Director and Deputy Associate Director for Surveillance and Compliance, and the Director and Deputy Director of the Division of Compliance of that Bureau.

(12) The Director and Deputy Director of the Bureau of Medical Devices; and the Assistant Director for Program Operations, the Assistant Director for Regulations Policy, the Associate Director for Compliance, and the Director of the Division of Compliance Operations of that Bureau.

(13) The Director and the Director of the Office of Management of the National Center for Toxicological Research.

(14) Regional Food and Drug Directors and District Directors.

(15) Director, Winchester Engineering and Analytical Center.

(16) Director, Minneapolis Center for Microbiological Investigations.

(b) The following officials are authorized to cause the seal of the Department to be affixed to agreements, awards, citations, diplomas, and similar documents.

(1) Associate and Deputy Associate Commissioners.

(2) The Director of the Division of Personnel Management of the Office of Management and Operations.

(c) The Federal Register Writer and his/her alternates of the Office of Regulatory Affairs are authorized to certify true copies of **Federal Register** documents.

Effective date. This regulation shall be effective October 17, 1980.

(Secs. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: October 9, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-32296 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 520

Anthelin Tablets; Oral Dosage Form New Animal Drugs Not Subject To Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking that portion of the animal drug regulations which reflects approval of a new animal drug application (NADA) providing for use of anthelin tablets as an anthelmintic in dogs. The sponsor, Jensen-Salsbery Laboratories, requested the withdrawal of approval.

EFFECTIVE DATE: October 27, 1980.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 7-226 is withdrawn. This document amends the regulations to delete that section which reflects approval of this NADA.

§ 520.120 [Revoked]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Part 520 is amended by revoking § 520.120 *Anthelin tablets.*

Effective date. October 27, 1980.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: October 6, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-32149 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; 706 Designation; Final Rule

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain State and local fair employment practices agencies so that they may process employment discrimination charges filed with the Commission, within their jurisdiction.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E. St., N.W., Washington, D.C. 20506, telephone 202/634-6040.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agency as a 706 Agency:

North Carolina State Personnel Commission [1]

With the addition of the above mentioned agency 29 CFR 1601.74 (a) and (b) are amended as follows:

§ 1601.74 Designated and notice agencies.

(a) The designated 706 agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ill.) Human Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Division
California Department of Fair Employment and Housing
Charleston (W. Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission on Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Fairfax County (Va.) Human Rights Commission
Florida Commission on Human Relations
Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Department of Human Rights
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Neb.) Commission on Human Rights
Madison (Wi.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Mn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hamsphire Commission for Human Rights
New Hanover (NC) Human Relations Commission
New Jersey Division of Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Carolina State Personnel Commission [1]
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Neb.) Human Relations Department
Oregon Bureau of Labor & Industries, Civil Rights Division
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Relations
Prince George's County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Mn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wa.) Human Rights Commission
Sioux Falls (S.D.) Human Relations Commission
South Bend (Ind.) Human Rights Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Oh.) Human Relations Department
Tacoma (Wa.) Human Rights Commission
Tennessee Commission for Human Development
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W.Va.) Human Rights Commission
Wichita (Ks.) Commission on Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wisconsin State Personnel Commission
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713(a), 78 Stat. 265 (42 U.S.C. 20003-12(a)))

Signed at Washington, D.C., this 14th day of October, 1980.

For the Commission.

Ann C. Jeffreys,

Acting Director, State and Local Division.

[FR Doc. 80-32249 Filed 10-16-80; 8:45 am]

BILLING CODE 6570-067-M

[1] The North Carolina State Personnel Commission is being designated as a 706 Agency for those charges filed by State Employees, employees of local social service departments, public health departments and mental health clinics, employees of local civil defense agencies which receive federal grant-in-aid funds and other county employees which the several boards of County Commissioners may from time to time determine.

This designation does not include charges filed by public school superintendents, principals, teachers, other public school employees, employees of the Office of The Governor and Lieutenant Governor. For these types of charges it shall be deemed to "Notice Agency" pursuant to 29 CFR 1601.71(b).

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 28, 55, 56, 57 and 70 Through 90 (Subchapter O)

Mine Safety and Health Standards; Technical Amendments and Editorial Revisions

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Technical amendments.

SUMMARY: This action by the Mine Safety and Health Administration makes technical amendments or editorial revisions to its safety and health standards in 30 CFR Chapter I, Subchapters D, N and O.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frank A. White, Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235-1910.

SUPPLEMENTARY INFORMATION: The Mine Safety and Health Administration makes the technical amendments or editorial revisions below to correct printing errors, style and related codification changes to improve the clarity of safety and health standards affecting the mining industries. Part 28 and Subchapter O are applicable to coal mines. Parts 55, 56, and 57 of 30 CFR are applicable to metal and nonmetal mines and mills. The heading for Subchapter O is applicable to coal mines. The technical amendments are intended to

correct Title 30 of the Code of Federal Regulations (as revised July 1, 1979). The amendments are nonsubstantive in nature and advance notice and public participation are unnecessary. Accordingly, these amendments are exempt from notice and comment procedures by 5 U.S.C. 553(b)(B).

Dated: October 7, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

SUBCHAPTER D—ELECTRICAL EQUIPMENT, LAMPS, METHANE DETECTORS; TESTS FOR PERMISSIBILITY; FEES

PART 28—FUSES FOR USE WITH DIRECT CURRENT IN PROVIDING SHORT-CIRCUIT PROTECTION FOR TRAILING CABLES IN COAL MINES

Section 28.23 is amended by revising paragraph (h) to read as follows:

§ 28.23 Approval labels or markings; approval of contents; use.

* * * * *

(h) The use of any MSHA approval label or marking obligates the applicant to whom it is issued to retest the approved fuse within a 2-year period from the date of the certificate of approval, and every 2 years thereafter, in accordance with the provisions of § 28.10.

SUBCHAPTER N—METAL AND NONMETAL MINE SAFETY AND HEALTH

PART 55—SAFETY AND HEALTH STANDARDS METAL AND NONMETAL OPEN PIT MINES

The headings for 30 CFR Subchapter N and Part 55 are amended by revising the headings to read as set out above.

Section 55.9 is amended by revising the introductory text of paragraph (e) of standard 55.9–88 to read as follows:

§ 55.9 Loading, hauling, dumping.

* * * * *

55.9–88 *Mandatory.* * * *

* * * * *

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation; or MSHA coal mine regulations of the U.S. Department of Labor; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

* * * * *

Section 55.20 is amended by revising standard 55.20–8 to read as follows:

§ 55.20 Miscellaneous.

* * * * *

55.20–8 *Mandatory.*

(a) Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel.

(b) The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

PART 56—SAFETY AND HEALTH STANDARDS—SAND, GRAVEL, AND CRUSHED STONE OPERATIONS

The heading for 30 CFR Part 56 is amended by revising the Part heading to read as set out above.

Section 56.9 is amended by revising paragraph (b) and the introductory text of paragraph (e) of standard 56.9–88 to read as follows:

§ 56.9 Loading, hauling, dumping.

* * * * *

56.9–88 *Mandatory* * * *

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with (1) ROPS meeting the requirements of paragraph (d), and (2) seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386 specified in paragraph (a) of this standard.

* * * * *

(e) All self-propelled equipment described in paragrpah (a) of the standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation; or MSHA coal mine regulations of the U.S. Department of Labor; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

* * * * *

Section 56.19 is amended by revising the introductory text and paragraph (a) of standard 56.19–128 to read as follows:

§ 56.19 Man hoisting.

56.19–128 *Mandatory.* Ropes shall not be used for hoisting when they have: (a) More than six broken wires in any lay;

* * * * *

Section 56.20 is amended by revising standard 56.20–8 to read as follows:

§ 56.20 Miscellaneous.

56.20–8 *Mandatory.* (a) Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel.

(b) The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

PART 57—SAFETY AND HEALTH STANDARDS—METAL AND NONMETAL UNDERGROUND MINES

The heading for 30 CFR Part 57 is amended by revising the heading to read as set out above.

§ 57.6 Explosives. [Amended]

Section 57.6 is amended by adding new standard actions to read as follows:

1. Reserve standard numbers 57.6–176 and 57.6–180 as follows:

57.6–176 [Reserved]

* * * * *

57.6–180 [Reserved]

2. Add a new center heading "Miscellaneous" after the reserve entry "57.6–221 through 57.6–249 [Reserved]" and a new center heading "General-Surface and Underground" below the new heading "Miscellaneous" as follows:

Miscellaneous

General-Surface and Underground

Section 57.9 is amended by revising the introductory text of paragraph (e) of standard 57.9–88 to read as follows:

§ 57.9 Loading, hauling, dumping.

* * * * *

57.9–88 Mandatory. * * *

* * * * *

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation; or MSHA coal mine regulations of the U.S. Department of Labor; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

* * * * *

§ 57.9 [Amended]

Section 57.9 is amended by removing standard 57.9–108 and adding reserve entry "57.9–108 [Reserved]."

57.9–108 [Reserved]

§ 57.21 Gassy mines. [Amended]

Section 57.21 is amended by making the following changes to standards 57.21–40 and 57.21–66 as follows:

In standards 57.21–40 and 57.21–66 remove "8(a) of the Federal Metal and Nonmetallic Mine Safety Act" and insert "104(c) of the Federal Mine Safety and Health Act of 1977."

SUBCHAPTER O—COAL MINE SAFETY AND HEALTH

The heading for 30 CFR Subchapter O is amended by revising the subchapter heading to read as set out above.

[FR Doc. 80-32482 Filed 10-16-80; 8:45 am]
BILLING CODE 4510-43-M

GENERAL SERVICES ADMINISTRATION

Federal Property Management Regulations

41 CFR Ch. 101

[FPMR Temp. Reg. A-16]

Federal Facility Ridesharing Program; Temporary Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation implements EO 12191, dated February 1, 1980. It prescribes procedures to be followed by Federal agencies in promoting ridesharing and reporting program achievements. The intent of this regulation is to promote ridesharing as a means of conserving fuel, reducing pollutants, reducing traffic congestion, and providing an economical way for employees to commute to work.

DATES: Effective date: October 17, 1980. Expiration date: June 30, 1981. Comments due on or before: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Larry Frisbee, National Ridesharing Coordinator, Federal Fleet Management Division, Office of Motor Equipment (202-275-1021).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of EO 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

Federal Property Management Regulations Temporary Regulation A-16

To: Heads of Federal agencies.
Subject: Federal Facility Ridesharing Program.

1. *Purpose.* This regulation establishes policy and prescribes procedures for the implementation of the Federal Facility Ridesharing Program.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires June 30, 1981, unless sooner revised or superseded.

4. *Background.* a. Executive Order 12191, dated February 1, 1980, established the Federal Facility Ridesharing Program. The President has assigned primary responsibility for program development and implementation to the General Services Administration (GSA) in consultation with the Department of Transportation (DOT). The objectives of the program are to conserve fuel, reduce congestion, improve air quality, and provide an economical way for employees to commute to work.

b. The effective implementation of the ridesharing program will require a cooperative effort among Federal, State, local, and private sector groups. Therefore, the Office of Management and Budget has asked the Federal Executive Boards, which exist in 26 major U.S. cities, to assist GSA and DOT in coordinating ridesharing efforts in the public and private sectors.

c. The primary role of Federal agencies will be to vigorously promote ridesharing at each Federal facility. The President has encouraged agency heads to take all feasible actions under the current law to provide ridesharing incentives.

5. *Definitions.* a. "Ridesharing" means commuting in groups of two or more using a single vehicle; i.e., carpools, vanpools, private buses, mass transit, or other multioccupancy modes of travel.

b. "Ridematching" means any system for mapping and matching home and work locations of interested commuters to identify prospects for ridesharing.

c. "Facility" means either a single building or a group of buildings or work locations at a common site.

d. "Third party operator" means an organization, firm, or individual, other than an employer or employee, who owns or leases vans or buses and either provides or contracts for continuing operational support.

6. *Policy.* It is the policy of the Federal Government to promote the use of ridesharing at all Federal facilities. In the process of promoting ridesharing, the Government shall not favor or endorse one commercial firm or nonprofit organization to the exclusion of other commercial firms or nonprofit organizations.

7. *Employee transportation coordinators.* Employee transportation coordinators shall be designated at each Federal facility with 100 or more full-time employees. (Agencies are encouraged to appoint coordinators at facilities with less than 100 full-time employees.) At facilities occupied by more than one Federal agency, the employee transportation coordinator shall be from the agency having the largest number of employees at the facility. The employee transportation coordinator shall:

a. Promote ridesharing at the facility by:

(1) Publicizing the availability of public transportation;

(2) Communicating employee transportation needs to local public transportation authorities and other organizations (such as private bus companies) furnishing multipassenger modes of transportation.

(3) Assisting employees in forming carpools or vanpools (employee-owned or leased, directly or through a third party operator);

(4) Aiding employee participation in ridematching programs. (Where ridematching programs do not exist, actions should be taken to begin these programs.)

b. Maintain an employee transportation profile showing the distribution of employee transportation modes; and

c. Prepare GSA Form 3261, Federal Facility Ridesharing Report, for annual submission to the agency coordinator.

8. *Ridesharing goals.* a. Ridesharing goals shall be established by each agency. Goals shall be expressed as a percentage of the full-time personnel that are employed by the agency and use ridesharing to commute between home and work. Goals should consider the availability of mass transit, local commuter routes, the number of employees participating in ridesharing at agency facilities, and the overall national goal.

b. The current national goal is 20-percent employee participation in ridesharing by January 1, 1981. This is the minimum acceptable goal under the Federal Facility Ridesharing Program. If an agency currently has a base line participation of 20 percent or greater, the minimum goal will be to increase employee participation by 20 percent by January 1, 1981. For example, if an agency has 30-percent employee participation in ridesharing, the minimum goal will be to increase employee participation to 36 percent by January 1, 1981.

c. Agencies will be evaluated primarily on their success in increasing the number of employees who use ridesharing to commute between home and work. GSA will evaluate overall agency efforts and results at individual facilities. Consideration will be given to the degree and intensity of agency and facility promotional efforts, the differences between facility locations, and the level of participation in employee ridesharing at the beginning of the program, since those agencies with a significant level of participation may find it more difficult to achieve a 20 percent increase above their base line.

9. *Reporting procedures.* a. *Facility reports.* Employee transportation coordinators shall prepare and submit by May 1, 1981, GSA Form 3261, Federal Facility Ridesharing Report. The report shall be submitted to the overall agency coordinator and shall include data on all Federal employees at the facility. (Copies shall also be furnished to other tenant agencies at the facility.)

b. *Agency reports.* Heads of agencies shall submit to GSA by June 1, 1981, a report which shall include:

(1) The agency ridesharing goal;

(2) Ridesharing results achieved within the agency;

(3) Methods used to promote ridesharing within the agency; and

(4) A copy (original only) of individual facility reports (GSA Form 3261) for each facility at which they have employee transportation coordinator responsibilities. Agencies having no overall responsibility at

individual facilities shall submit a narrative report detailing agency promotional efforts.

Reports shall be submitted to: General Services Administration (TMM), Washington, DC 20406.

The report prescribed by this regulation has been cleared in accordance with Subpart 101-11.11 and has been assigned interagency report control number 0258-GSA-AN.

c. *Exemptions.* Facilities with less than 100 full-time employees are not required to submit an annual report. Agencies shall not subdivide buildings, groups of buildings, or worksites for the purpose of meeting the exemption standards.

10. *Ridematching systems.* Wherever possible, agencies shall use and promote existing ridematching services. Where ridematching services do not exist, they shall be established, preferably in conjunction with nearby facilities. Ridematching systems may be manual or computerized. All systems must be in compliance with the Privacy Act of 1974.

11. *Effect on other laws or other agency regulations.* a. *Clean Air Act.* In jurisdictions where State implementation plans for air quality approved or promulgated by the Environmental Protection Agency (EPA) have placed employers under more stringent guidelines in promoting or reporting ridesharing efforts, the requirements in the air quality plans shall take precedence over this regulation.

b. *Federal Standby Conservation Program.* If Federal standby conservation measures are enacted under the Emergency Energy Conservation Act, those measures relating to employer efforts in promoting and reporting ridesharing projects shall take precedence over this regulation.

12. *Technical assistance to agencies.* Because of the large number of Federal, State, local, and private sector groups involved in the promotion of ridesharing, there are many different resources available to Federal agencies interested in technical assistance and promotional materials for use in their ridesharing programs. To aid agencies in identifying these resources, GSA has designated ridesharing coordinators at each of its regional offices. A list of these coordinators and national program officials is provided as an attachment to this regulation.

13. *Comments.* Comments concerning this regulation may be submitted before December 31, 1980, to the General Services Administration (TMM), Washington, DC 20406.

14. *Availability of forms.* Agencies may obtain their initial supply of GSA Form 3261 from the General Services Administration (WBRDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington, DC headquarters office which will forward consolidated annual requirements to the General Services Administration (HRM), Washington, DC 20405. An initial distribution of the form will be made to all GSA regional offices for their use and additional supplies of the form should be obtained in the usual manner.

R. G. Freeman III,
Administrator of General Services.

GSA Regional Ridesharing Coordinators

Region 1—Boston, MA

George Delisle, J. W. McCormack P.O. & Courthouse, Boston, MA 02109, FTS 223-2536.

Region 2—New York, NY

Frank Kirschoff, 26 Federal Plaza, New York, NY 10007, FTS 264-3930.

Region 3—Philadelphia, PA

Joe Thompson, 9th & Market Streets, Philadelphia, PA 19107, FTS 597-1261.

Region 4—Atlanta, GA

Ron Summers, 75 Spring Street SW., Atlanta, GA 30303, FTS 242-3054.

Region 5—Chicago, IL

Roger Willadsen, 230 South Dearborn Street, Chicago, IL 60604, FTS 353-5379.

Region 6—Kansas City, MO

Tom Hunter, 1500 East Bannister Road, Kansas City, MO 64131, FTS 926-7551.

Region 7—Fort Worth, TX

John Crawford, 819 East Taylor Street, Forth Worth, TX 76102, FTS 334-2381.

Region 8—Denver, CO

Jim Wooton, Denver Federal Center, Building 41, Denver, CO 80225, FTS 234-4091.

Region 9—San Francisco, CA

Annah Liechti, 525 Market Street, San Francisco, CA 94105, FTS 556-1455.

Region 10—Auburn, WA

Chuck Hammer, GSA Center, Auburn, WA 98002, FTS 396-5423.

National Capital Region—Washington, DC

Michael Ziskind, 7th & D Streets SW., Washington, DC 20407, FTS 472-1776.

GSA National Ridesharing Coordinators

Larry Frisbee
Les Gray
Jack Carlile
425 I Street, NW.
Washington, DC 20405
FTS 275-1021.

[FR Doc. 80-32451 Filed 10-16-80; 8:45 am]
BILLING CODE 6820-AM-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 81, 83, and 87

[Docket No. 20817]

Establishing a Marine Radio Operator Permit and Deleting the Radiotelephone Third-Class Operator Permit

AGENCY: Federal Communications Commission.

ACTION: Setting effective date of final rule.

SUMMARY: On July 17, 1980, the Commission approved an amendment to Parts 13, 81, 83, and 87 of its rules which would, among other things, abolish the Radiotelephone Third Class Operator Permit, establish a "Marine Radio Operator Permit", and re-arrange the order in which examinations for first and second class licenses are given. The effective date would be specified in a later Public Notice. See the August 6, 1980, edition of the **Federal Register,** 45 FR 52154. The FCC has now specified the effective date as October 13, 1980, for all of these changes.

EFFECTIVE DATE: October 13, 1980.

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

FOR FURTHER INFORMATION CONTACT: Roy E. Kolly or Vernon P. Wilson, Field Operations Bureau, 202-632-7240.

SUPPLEMENTARY INFORMATION:

PART 13—COMMERCIAL RADIO OPERATORS

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

PART 87—AVIATION SERVICES

Radiotelephone Third Class Operator Permit Abolished

On July 17, 1980, the Commission adopted an amendment to its rules which, among other things, abolished the Radiotelephone Third Class Operator Permit. The effective date was to be announced in a Public Notice. The purpose of this Public Notice is to announce that the effective date is October 13, 1980.

On and after October 13, 1980, third class permits will no longer be issued nor will examinations for these permits be administered. The other changes taking place on that date are the establishment of a "Marine Radio

Operator Permit" and a re-arrangement of the order in which examinations for first and second class licenses are given. Specifically, the element three examination must be passed before taking the element one and two examinations.

This effective date pertains to the Third Report and Order in Docket 20817 which was adopted July 17, 1980. The Third Report and Order was published in the August 6, 1980, edition of the Federal Register, 45 FR 52154.

Federal Communications Commission.

William J. Tracarico,

Secretary

[FR Doc. 80-31291 Filed 10-16-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Second Revised Directed Service Order No. 1482]

Various Railroads—Directed Service—and Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Second revised directed service order No. 1482.

SUMMARY: Pursuant to Section 104 of Pub. L. 96-254 (May 30, 1980) the Commission is directing various carriers named in the Appendix to provide service over described lines of the Chicago, Rock Island & Pacific Railroad Company, debtor (William M. Gibbons, Trustee) (Rock Island or RI) due to lack of rail service which cannot be resolved by a grant of interim operating authority over specific lines.

This directed service order, originally published at 45 FR 56810, August 26, 1980, is being revised to clarify the rates which may be established during the directed service period pursuant to paragraph (5) of the order.

DATE: *Effective date:* This directed service order shall become effective at 12:01 a.m. (central time) on October 15, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard J. Schiefelbein, (202) 275-0826

or

Joel E. Burns, (202) 275-7849.

SUPPLEMENTARY INFORMATION:

Decision of the Commission

Background

The Rock Island has been in bankruptcy proceedings since 1975. In September 1979, its cash flow position became so severe as to prevent the continuation of normal rail operations. Accordingly, we issued Directed Service Order No. 1398 (and supplements thereto) directing the Kansas City Terminal Railway Company (KCT) to provide service under 49 U.S.C. 11125 as a subsidized "directed rail carrier" (DRC) over the Rock Island rail system. *Kansas City Term. Ry. Co.—Operate—Chicago, R.I.&P.*, 360 I.C.C. 289, 478, 718 (1979-80) (44 FR 56343, October 1, 1980). That order expired on March 23, 1980.

In order to provide for the continuation of essential rail services, we issued various service orders and directed service orders, without federal subsidy, authorizing several railroads to provide interim service over Rock Island lines on a voluntary basis. Our unsubsidized directed service orders issued under 49 U.S.C. 11125 expired on May 31, 1980, in accordance with statutory time limits.

On May 30, 1980, Pub. L. 96-254 ("Rock Island Railroad Transition and Employee Assistance Act" or "RITEA") was enacted. Section 104 of RITEA provides that the Commission shall, notwithstanding the provisions of 49 U.S.C. 11125 or Pub. L. 96-131, order directed service for a period not to exceed 90 days over any line of the Rock Island if the Secretary of Transportation finds and certifies to the Commission a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and that either (a) grains or foods are ready to be shipped to market, or (b) a rail carrier, shipper, State, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating the particular rail line or facilities for purposes of providing rail services, and there is a reasonable expectation that such transaction will be consummated. RITEA further provides that the Secretary may make available to the Commission not more than $15 million for purposes of providing directed service.

The Secretary of Transportation made a directed service certification to the Commission pursuant to section 104 of RITEA, with respect to Rock Island's lines listed in the appendix. The certification is incorporated in this decision by this reference. A summary of the certification is attached as an appendix.

Discussion and Conclusions

Section 104 of RITEA requires the Commission to direct service for a period not to exceed 90 days over any RI line for which the Secretary of Transportation makes an appropriate certification to the Commission. The Secretary has made the appropriate certification for Rock Island's lines described in the appendix. Therefore, we shall direct the named DRCs to perform operations over the certified lines.

We will direct service for the period for which the Secretary of Transportation has certified that need for service over the line exists.

Because of the emergency nature of the situation and the need for immediate action, we are issuing this decision without advance public notice and hearings. The Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, subchapter II, does not require prior notice or hearing where such procedure would be impracticable or inconsistent with the public interest, 5 U.S.C. 553(b)(B). Further, in view of the continuing emergency with respect to service over Rock Island lines, good cause exists to make this decision effective immediately.

The terms and conditions of this directed service are set forth below, and are specifically revised with respect to the rates which may be established during directed service.

Terms and Conditions

Effective date—DSO No. 1482 shall be effective at 12:01 a.m. (central time) on the first day following the service date of this decision.

Expiration date—Unless modified by the Commission, this order will remain in effect, with respect to each particular DRC, according to the terms set forth in the appendix.

Operations—The DRCs are authorized respectively, to operate over the RI tracks described in the appendix. Operation over the designated tracks includes use of facilities and appurtenances thereto that are necessary or reasonably related to train operations, including but not limited to: yards, yard facilities; maintenance facilities; communication, electrical, and signal facilities; locomotive and car repair facilities; scales; etc.

Reimbursement procedures.—Reimbursement for directed service operations under this decision shall be subject to the provisions of 49 CFR Part 1126, *Submission of Cost Data to Justify Reimbursement for Directed Service.* To ease the fiscal burdens involved in commencing service under the directed service order, any DRC may elect to use the optional three-stage funding procedure established in our directed service regulations 49 CFR 1126.3. This flexible procedure was established by us to provide for initial, interim, and

final funding to assist a DRC in meeting the startup and subsequent cash requirements involved in directed service.

In an effort to facilitate further the ability of the DRCs to meet startup costs we shall partially relax the reporting requirements associated with initial funding requests under § 1126.3(b). At present, initial funding requests must be documented by three items: (i) a brief description of the DRC's initial operating plan for the directed service; (ii) a statement of its immediate cash requirements; and (iii) a statement of forecasted costs and revenues. See 49 CFR 1126.3(b)(i–iii). To streamline the initial funding process, we shall permit the DRC to omit from its "initial operating plan" certain data which we would ordinarily require.

Section 1126.3(b)(i) requires the DRC's initial operating plan to outline the following information: (1) the frequency and schedule of service planned; (2) the personnel and equipment to be utilized; (3) the crew change and interchange points to be observed; (4) any immediate maintenance and repair work required; and (5) its fuel and supply needs. However, startup funds may well be needed by the DRC before it can determine this information. Therefore, we will permit a DRC to apply for initial funding under 49 CFR 1126.3(b) without filing an initial operating plan containing all the information requested by § 1126.3(b)(i). Rather, the DRC's initial operating plan need only contain the information which it has available to it at the time of its application for initial funding. The DRC shall, however, submit an updated operating plan as soon as one is developed. Initial funding to cover start-up costs may not exceed the estimated net cost of directed service. If the DRC's start-up costs exceed the estimated net cost of directed service, the DRC may borrow the additional funds necessary to commence operations and claim reimbursement for interest on the loan as a cost of directed service. The Commission will not be responsible for the reimbursement of any costs beyond those agreed to by the Secretary of Transportation and the DRCs or in excess of the statutorily available funds under 45 U.S.C. 1003 (Section 4 of RITEA).

The issuance of this directed service order does not preclude interested rail carriers (including the DRC) from filing petitions with the Commission to operate over portions of the RI on a noncompensated basis under section 122 of Pub. L. 96–254 or similar provisions.

Track Safety—The DRCs are not authorized to expend funds to rehabilitate the track above the level necessary to provide the service certified by the Secretary of Transportation without prior approval of the Commission. The DRCs may make necessary repairs in order to keep the line operable.

A DRC, with the Trustee's consent, may enter Rock Island property before commencing operations in order to perform repairs necessary to make the line operable. Entry prior to the service period shall be at the DRC's own risk and expense with respect to insurance, casualties, and rent. Direct costs of repair work prior to the directed service period, necessary to make the line operable at the level of service specified for directed operations, may be claimed as reimbursable cost of directed service. Reimbursement for these costs may not be claimed until directed service has commenced. DRC may, however, borrow funds as needed in order to perform these repairs and claim interest expense as a reimbursable cost.

Cars and Operating Equipment—In operating the involved RI lines, each DRC shall use its own cars and operating equipment.

Employees—To the maximum extent practicable, the DRC shall hire former employees of Rock Island necessary to perform directed service over Rock Island properties. Rock Island employees hired during the directed service period do not assume an employment relationship with the DRCs. The DRC's work rules, rates of pay, and employment conditions will apply. Rock Island seniority roster shall apply.

Preservation of RI Estate—During the period of its operation of RI's lines, the DRCs shall be responsible for preserving the value of the lines to RI estate. The DRCs shall thus have an affirmative duty to perform that degree of maintenance necessary to avoid deterioration of the lines and related facilities, unless otherwise agreed.

Liabilities and expenses.—We shall treat as compensable costs of directed service all liabilities and expenses arising out of wrecks or derailments, personal injury claims and actions, and damage to or destruction of property on directed service lines. Prior to commencing operations, each DRC shall obtain necessary insurance in an amount reasonably estimated to cover major liabilities and expenses of this kind. All liabilities arising out of directed service, but not finally determined as of expiration of the directed service period, should be covered by the DRCs' Casualty Loss reserves.

Both reserves and the cost of appropriate insurance may be claimed as reimbursable costs of directed service. For outstanding claims covered by insurance, deductible amounts may be included in the reserve accounts.

Reserve accounts may be included in the directed service cost form only if contingent liabilities not covered by (or in excess of) insurance have been incurred during directed service but not finalized in amount. Those amounts shall be dispensed to the DRC as the respective liabilities are finalized and certified by the Commission for payment. See *Regional Rail Reorg. Act—Submission of Cost Data*, 348 I.C.C. 251, 278 (1975) (*Submission of cost Data I.*)

Compensation for RI lines and facilities.—The Bankruptcy Court has approved abandonment by the Trustee of the entire Rock Island system. Compensation for use of Rock Island tracks in directed service under RITEA presents a situation different from that presented in *Lehigh & New England Ry. Co.*, v. *I.C.C.*, 540 F.2d 71 (3d Cir. 1976), *cert. denied* 429 U.S. 1061 (1977) (LNE case) In the *LNE* case we concluded that compensation need not be paid by a DRC for use of tracks and related facilities unless directed service should be profitable. That decision was based to a large extent on the conclusion that directed service confers substantial benefits on the owner of the line, by relieving the owner of its duty to provide service during the period of directed operations. The Bankruptcy Court's action has relieved the RI Trustee of these duties. Therefore, we believe that the Rock Island estate should be compensated for the use of Rock Island tracks and related facilities used in directed operations, whether or not those operations are profitable.

In *St. Louis-San Francisco Railway Company—Compensation Company—Compensation for Use of Terminal Tracks—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)*,—I.C.C.—(decided April 7, 1980), 45 FR 25401 (April 15, 1980 (*Frisco Compensation* case) we set reasonable compensation terms for use of RI tracks during interim operations under 49 U.S.C. 11123. We believe that the terms set forth in the *Frisco Compensation* case will also provide for payment of just and reasonable compensation for use of RI tracks in directed service operations under section 104 of RITEA. Therefore, DRC shall pay the Trustee, as a reimbursable expense of directed service, compensation for use of Rock Island tracks and related facilities in accordance with the *Frisco Compensation* formula.

Rates. The DRCs may adopt any existing local Rock Island rates or may establish new through or local rates, other than transit rates, on not less than one day's notice to the Commission and the public. Transit rates may be established on not less than one day's notice, provided that tariffs are appropriately modified requiring (1) that the further movement from transit points be from transit points not located on the line over which service is being directed, unless the further movement (a) takes place during the directed service period, or (b) takes place over a another carrier's lines if the directed service period has expired, (2) that it moves no later than sixty days after the end of the directed service period, and (3) that connecting railroads which agree to these tariff changes have no recourse against the United States should the directed carrier fail to settle a transit claim filed after the end of the directed service period.

Operational Difficulties—Any operational or other difficulties associated with the authorized operations shall be resolved by the DRC and any other affected party through negotiated agreement or, failing agreement, by the Commission's Railroad Service Board.

Reporting Requirements—The DRCs shall submit to the Commission, on a monthly basis, reports on the directed service operations. These reports shall include summaries of the traffic handled, the revenues collected, and the expenses incurred in the directed service operations, in a form to be specified by the Commission's Bureau of Accounts. Revenue, expenses, and statistics resulting from directed service operations shall be internally maintained separate form the DRC's usual railroad operations.

We find: 1. The Secretary of Transportation has made a directed service certification to the Commission, pursuant to a section 104 of Pub. L. 96–254, with respect to Rock Island's lines described in the appendix.

2. The designated DRCs are capable of performing directed service over the lines certified by the Secretary.

3. This decision will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108, (1978).

It is ordered:

§ 1033.1482 Directed service order No. 1482.

(1) *Various railroads—directed service—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee). Entry*—Each DRC is directed to enter upon and operate RI's lines described in the appendix pursuant to this directed service order under and section 104 of Pub. L. 96–254. Entry, by each DRC, respectively, shall occur and continue in accordance with the terms set forth in the appendix. Each DRC shall notify the Commission of its entry on the property immediately after such entry takes place.

(2) *Other Matters*—Operations under this order shall conform with the directions prescribed above and the directed service certification of the Secretary of Transportation.

(3) *Commission Filings*—All submissions filed in this proceeding should refer to "DSO No. 1482" and be sent to the following Commission offices in the Commission's Headquarters at 12th and Constitution Avenue, NW., Washington, DC 20423:

(i) Office of the Secretary (Room 2215) (original)

(ii) Section of Finance (Room 5417) Office of Proceedings (3 copies)

(iii) Section of Rail Service Planning (Room 7375) Office of Policy and Analysis (3 copies)

(iv) Railroad Service Board (Room 7115) (3 copies)

(4) *Applicability*—The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

(5) *Modifications*—The Commission retains jurisdiction to modify, supplement or reconsider this order at any time.

(6) *Initial and Interim finding*—All correspondence to the Commission containing requests for initial and interim funding shall be addressed to: Ronald S. Young, Director, Bureau of Accounts, Interstate Commerce Commission, Room 6133, 12th and Constitution Avenue NW., Washington, DC 20423.

Envelopes containing such requests shall have the notation "Rock Island-DS" typed on the lower left corner.

(7) *Costs and revenues*—The DRC shall record the costs and revenues attributable to directed service in the manner prescribed in this decision and in 49 CFR 1126, 44 FR 6156, 8879 (1979), subject to the limitations set forth in the directed service certification of the Secretary of Transportation.

(8) *Service on Parties*—This decision shall be served on all parties. This decision shall also be served upon the American Short Line Railroad Association and upon the Association of American Railroads, Car Service Division (as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement).

(9) *Notice to General Public*—Notice of this decision shall be given to the general public by: (a) depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC; and (b) filing a copy with the Director, Office of the Federal Register.

(10) *Effective Date*—This decision and order shall be effective at 12:01 a.m. (central time) on the first day after this decision's service date.

(11) *Expiration Date*—Unless otherwise modified by the Commission, this decision and order will expire with respect to the various DRCs in accordance with the terms set forth in the appendix.

Decided: October 9, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Vice Chairman Gresham not participating. Commissioner Trantum dissenting.

Agatha L. Mergenovich,

Secretary.

Appendix

Rock Island Lines Certified for Directed Service Under Rock Island Railroad Transition & Employee Assistance Act—Pub. L. 96–254 (May 30, 1980)

1. A. *Carrier.* Wabash Valley Railroad Company, a wholly owned subsidiary of Morrison-Knudsen Company, Inc.

B. *Certification Date.* August 8, 1980.

C. *Description of Lines.*

(1) Subdivision 7, mainline track extending eastward from Phillipsburg, KS, milepost 283.9 to Mahaska, KS, milepost 170.3; and

(2) Subdivision 20–B, branchline track extending southeast from Belleville, KS, milepost 226.1 to Manhattan, KS, milepost 143.3.

D. *Service Period.* Beginning on or about September 1, 1980, and continuing for ninety days, dates inclusive.

E. *Frequency of Service.* Not less than two trains per week.

F. *Reimbursement.* In no event shall the aggregate of compensation paid or payable by the United States exceed $1,000,000 for the total directed service period.

2. A. *Carrier.* The Atchison, Topeka and Santa Fe Railway Company.

B. *Certification Date.* September 4, 1980.

C. *Description of Lines.*

(1) Subdivision 25–C, branchline track in Alva, Oklahoma, (milepost 101.0 to 103.5).

D. *Service Period.* Beginning on or about October 1, 1980, and continuing for ninety days, dates inclusive.

E. *Frequency of Service.* Service to be provided on an as needed basis.

F. *Reimbursement.* The aggregate compensation paid or payable by the United States should not exceed $170,140 for the total directed service period.

[FR Doc. 80–32402 Filed 10–16–80; 8:45 am]

BILLING CODE 7035–01–M

49 CFR Part 1045

[Ex Parte No. MC-96 (Sub-3)]

Property Broker Practices

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commision is adopting rules which govern the operational practices of property brokers. The Commission proposed these rules at 45 F.R. 31140, May 12, 1980. The rules adopted are identical to those proposed, except for minor corrections.

The adopted rules eliminate unnecessary governmental interference with the business dealings between brokers, shippers and carriers, reduce recordkeeping requirements, and clarify the language of the rules.

EFFECTIVE DATE: These rules become effective November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Metrinko, 202–275–7805 or Edward E. Guthrie, 202–275–7691.

SUPPLEMENTARY INFORMATION: These rules deal with the operational practices of property brokers. Following a notice issued last March announcing our intention to conduct a thorough examination of the regulation of brokers, and the receipt of comments in response to that announcement, we issued a set of proposed regulations last May. As we noted there, our fundamental goal in regulating transactions among brokers, carriers and shippers is to remove unnecessary restrictions which might impede the free operation of the marketplace.

Comments were received from only a small number of parties, but significant views are represented. Comments were received from, among others, the National Customs Brokers and Forwarders Association of America, Inc., and the Property Brokers Association of America, Inc., in support of the proposed rule. Several motor carriers, the American Movers Conference and the Household Goods Carrier's Bureau oppose the revisions contemplated to 49 CFR 1045.9, the rebating and compensation rule. Where no public comment has been received on a separate paragraph or section of the proposed rules, we will not address the matter further.

W.S. Hatch Co., argues that the broker is in a predominant position. Once it gets the freight, there is no bargaining. Hatch's experience with brokers, however, has apparently been largely with brokers of exempt commodities, where the brokers are not licensed, and often cannot be precisely located. In addition, the nature of originating traffic is entirely different in the exempt agricultural area. In the regulated transportation area, points of distribution or manufacture are precisely located. If a carrier wishes to bypass the broker and offer the shipper a better deal, the shipper can easily be found.

In addition, I.C.C. brokers are licensed and bonded. Failure to pay transportation bills is guarded against through the Commission's requirement of a surety bond. If the bond is revoked, a broker may not continue to operate until a valid bond is obtained. See 49 U.S.C. 10927(b). The licensed broker is also required to designate service of process agents in States where it writes contracts of has offices. An aggrieved party may thus readily bring suit against an unscrupulous broker.

Yellow Freight System, Inc., argues that the brokerage services performed are generally on behalf of the shipper, and that the carrier should not be placed in the position where it is forced to accede to the request for a commission. This subject was addressed in the notice of proposed rulemaking. We wish to emphasize, however, that the carrier and shipper are free to deal directly with each other. The carrier may, for example, convince the shipper that it will get all the necessary services from the carrier at a cheaper price. Only where the shipper finds that it can get better service from the broker will it stay with the broker. In short, we believe the carrier has it within its power to market its service in a way that will make it attractive for the shipper to deal directly with the carrier.

We nonetheless recognize that brokerage services are performed for the benefit of *both* the carrier and the shipper and we do not want to compromise the opportunities for the use of brokerage where that arrangement is beneficial to all parties. We disagree with the contentions of Yellow that benefits flow only to the shipper. Where a shipper requests that a broker find suitable motor carrier service, the broker, in contacting the carrier for the shipper, is performing similar functions to that which the carrier's sales or traffic departments would normally be performing. The broker has opened up a flow of business that would perhaps never have been tapped. Were we to preclude commissions from carriers entirely, the carrier would be obtaining free sales and traffic service. If the carrier chooses to do business with the broker on a continuing basis, it is conceivable that it might reduce its own sales operations. Finally, the carrier is never required to pay a commission. It will do so only if it determines that the tendered traffic will benefit its operations.

The American Movers Conference and Household Goods Carriers' Bureau (AMC) jointly oppose the modification of 49 CFR 1045.9, especially insofar as it would apply to property brokers of household goods. They also contend that the services of household goods brokers are not mutually beneficial to shippers and carriers. Further, household goods brokers perform services for the shipper which they contend must be paid for by the shipper because payment by the carrier would be an illegal rebate under 49 U.S.C. 10761. They argue that when a person is vested with control of a shipper's traffic because of a non-transportation relationship with the shipper, the payment of a commission by a carrier for the tendering of a shipment is an unlawful rebate, even though the person receiving the payment does not own the goods shipped or pay the transportation charges.

AMC also points to prior Commission decisions, such as *Jacobs Broker Application*, 30 M.C.C. 51, 53 (1941), which state that permitting a carrier to pay for services which benefit only the shipper is unlawful, and that allowing a broker to render free valuable services to a shipper contributes to undesirable control of the traffic, defeating freedom of negotiations.

Further, AMC argues that household goods brokers should be treated differently, since the Commission in the past has stated that these brokers offer little or no benefit to shippers or carriers.

We do not accept the overly strict interpretations of the rebate provisions of the Interstate Commerce Act by the AMC. It is clear that the Motor Carrier Act of 1980 (Act) has substantially changed the way those provisions should be interpreted. Moreover, the philosophy of the new Act gives encouragement to greater individual bargaining. While the Congress has, in certain instances, given the Commission specific direction in implementing transportation policy, it has also clearly given us a general mandate to open up the bargaining process between shippers and carriers. Amendments to the National Transportation Policy, the establishment of a zone of rate freedom accompanied by the eventual elimination of antitrust immunity for single-line rates, and the liberalization of entry for motor carriage of property are all designed to spur individual initiative in service and pricing. It is in

this context that the arguments presented by AMC must be evaluated.

It should be made clear at the outset that payment of a commission by the carrier to the broker was not completely proscribed even under present rule 49 CFR 1045.9. The prohibition extended only to payment of a commission for "brokerage" services. "Non-brokerage" services performed for the carrier, even where there was prior affiliation with the shipper, could have resulted in compensation being paid by the carrier to the broker. Thus, payment of a commission was not an illegal rebate *per se.*

The Commission's policy was partly grounded in the concept, which we now believe is incorrect, that when a broker contacts a carrier on behalf of a shipper that benefits flow only to the shipper. We reject that contention explicitly.

Let us take an example from another industry where brokers play an important part in the transaction, the real estate brokerage industry. While commission payment arrangements differ within that industry, one common arrangement is as follows. A potential seller lists a home with the broker for an agreed upon commission. The seller realizes that if it wishes to receive a certain amount of money from the transaction (hopefully, a profit) it must set the selling price at a level that takes the commission into account. A potential buyer also contacts a broker, which for simplicity we will assume here is the listing broker. The buyer agrees to sign a contract knowing that while technically the commission will come from the seller, the price of the house includes the commission to the broker. The seller agrees to the commission because the broker has found it a buyer. The willing buyer accedes to the arrangement because it knows that it is merely helping to pay the broker's commission for a service the buyer has also received—finding a suitable home. Thus, both buyer and seller have received benefits and both contribute to the broker's payment. The situation in the motor carrier industry is similar—both are receiving a benefit. We will examine some examples in the household goods broker industry.

The broker of household goods may be serving two general types of customers. First, there is the corporate customer. The broker may be hired on a long term basis to handle the household moves of the employees of an entire corporation or other large organization.

While the carrier may attempt to bargain directly with the shipper, it may prefer to allow the broker to handle preliminary details. The broker will have to coordinate schedules and handle paperwork. The broker may have to set up permanent liaison with the corporation, or may be required to learn details about the corporation in order to plan the moves most effectively. Whatever services are provided, however, also benefit the carrier. Undoubtedly the carrier would have to upgrade its own staff were it to undertake all the preliminary services necessary and incident to the actual transportation. And, obviously, the broker has benefitted the carrier by finding traffic for it.

The broker may not be able to bargain directly with the other general type of customer,[1] the individual shipper of household goods, but the fact remains that benefits still flow to the carrier. If the carrier has not prevailed in this bargaining process, it now has a choice. If it wants the traffic the broker has attracted, it can bargain with the broker. Retrieving this business should be worth something to the carrier. If it sees a benefit, the carrier should be willing to pay an appropriate commission. However, the carrier enjoys another benefit. As with the corporate customer, the broker's initial dealings with the shipper will have substituted for those that would been performed by the carrier. While the cost savings to a carrier may not be discernible in individual cases, in the long run the carrier will achieve savings by having to rely less on its own clerical or sales staff. It must be remembered that even the handling of public inquiries constitutes a real cost to an organization, although this is often not apparent on its face. The carrier may even wish to expand its reliance on the sale, paperwork and information disssemination expertise of the broker.

We thus believe that the Commission's early interpretations of the concept of lack of benefit to the carrier, as in *Jacobs, supra,* were incorrect, and that line of cases cited by AMC is overruled. As the implementation of the new Act makes the trucking industry more competitive, carriers may fully discover the advantages in having brokers find suitable shipments which their own traffic and sales departments have not located.

Finally, the Act impels us to make the compensation rule more flexible because of what we see as an increased future need for property brokers. The Act, in broad terms, makes entry into the industry easier. In specific terms, it dramatically opens up entry in the transportation of foodstuffs and other commodities by owner-operators, under the provisions of 49 U.S.C. 10922(b)(4)(E). These individuals will require assistance by property brokers in finding loads since they will not have sophisticated, or perhaps any, communications systems or sales personnel. There will be greater incentive for brokers to seek out the clientele of these owner-operators if they know they can lawfully obtain a commission for matching the needs of the owner-operators with the brokers' shipper clients.

Finally, we find little relevance in the argument that household goods brokers should be treated differently since the Commission in the past has frequently found their services to be of little benefit. We are here talking about licensed brokers whose proposed services have already been found to be in the public interest.

We should point out that in the future, household goods broker applications will be decided under an Act which favors negotiation and provides the means, e.g., rate freedoms, to bring real benefits to individual shippers of household goods.

Accordingly, we adopt the rules proposed in the prior **Federal Register** notice, as set forth in the appendix to this notice.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

This action is taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: September 29, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR 1045 is revised by making the following changes:

1. Revise § 1045.2 to read as follows:

§ 1045.2 Definitions.

(a) "Broker" means a person who, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier. Motor carriers, or persons who are employees or bona fide agents of carriers, are not brokers within the meaning of this section when they arrange or offer to arrange the transportation of shipments

[1] Once the broker has attracted the individual's business, the carrier will not normally know the identity of the shipper. By then the individual may have contracted with the broker, and probably the broker would not willingly disclose the name of the shipper until near the loading date. To counteract this tendency, the carrier will have to step up its salesmanship when contacted by the general public by offering competitive price and service options.

which they are authorized to transport and which they have accepted and legally bound themselves to transport.

(b) "Bona fide agents" are persons who are part of the normal organization of a motor carrier and perform duties under the carrier's directions pursuant to a preexisting agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others.

(c) "Brokerage" or "brokerage service" is the arranging of transportation or the physical movement of a motor vehicle or of property. It can be performed on behalf of a motor carrier, consignor, or consignee.

(d) "Non-brokerage service" is all other service performed by a broker on behalf of a motor carrier, consignor, or consignee.

2. Revise § 1045.3 to read as follows:

§ 1045.3 Records to be kept by brokers.

(a) A broker shall keep a record of each transaction. The record shall show:

(1) The name and address of the consignor;

(2) The name, address, and lead MC-number of the originating motor carrier;

(3) The bill of lading or freight bill number;

(4) The amount of compensation received by the broker for the brokerage service performed and the name of the payer;

(5) A description of any non-brokerage service performed in connection with each shipment or other activity, the amount of compensation received for the service, and the name of the payer; and

(6) The amount of any freight charges collected by the broker and the date of payment to the carrier.

For purposes of this subsection, brokers may keep master lists of consignors and the address and lead docket number of the carrier, rather than repeating this information for each transaction.

(b) Brokers shall keep the records required by this section for a period of three years.

(c) Each party to a brokered transaction has the right to review the record of the transaction required to be kept by these rules.

3. Delete present §§ 1045.4, 1045.5, and 1045.6 and reserve them for future use.

§ 1045.4 [Reserved]

§ 1045.5 [Reserved]

§ 1045.6 [Reserved]

4. Revise §1045.7 to read as follows:

§ 1045.7 Misrepresentation.

(a) A broker shall not perform or offer to perform any brokerage service (including advertising), in any name other than that in which its license is issued.

(b) A broker shall not, directly or indirectly, represent its operations to be that of a carrier. Any advertising shall show the broker status of the operation.

5. Delete present § 1045.8 and reserve it for future use.

§ 1045.8 [Reserved]

6. Revise § 1045.9 to read as follows:

§ 1045.9 Rebating and compensation.

(a) A broker shall not charge or receive compensation from a motor carrier for brokerage service where:

(1) The broker owns or has a material beneficial interest in the shipment or

(2) The broker is able to exercise control over the shipment because the broker owns the shipper, the shipper owns the broker, or there is common ownership of the two.

(b) A broker shall not give or offer to give anything of value to any shipper, consignor or consignee (or their officers or employees) except inexpensive advertising items given for promotional purposes.

7. Revise § 1045.10 to read as follows:

§ 1045.10 Duties and obligations of brokers.

Where the broker acts on behalf of a person bound by law or a Commission regulation as to the transmittal of bills or payments, the broker must also abide by the law or regulations which apply to that person.

8. Revise § 1045.11 to read as follows:

§ 1045.11 Transfer of property broker licenses; change in control of corporations and associations holding broker licenses; petitions for reconsideration.

(a) In order to transfer a property broker license, a transferee must file with the Commission an application for approval of the transfer. The application must contain proof that the transferee is fit, willing, and able to perform the duties of a broker and that the transfer will not be contrary to the public interest.

(b) If there is a change in the control of a corporation or association which holds a broker license, an application must be filed with the Commission describing the change and offering proof that the change is not contrary to the public interest.

(c) The rules that govern the form and manner of filing of applications, the notice that must be given to the public, and the manner of filing protests are the same as those which apply to the transfer of operating rights (see 49 C.F.R. 1100.225).

(d) Rules governing petitions for reconsideration of a decision under this subsection will be governed by the rules contained in 49 C.F.R. 1132.4 and 1100.225.

9. Delete § 1045.12 and reserve it for future use.

§ 1045.12 [Reserved]

10. Revise § 1045.13 to read as follows:

§ 1045.13 Accounting.

Each broker who engages in any other business shall maintain accounts so that the revenues and expenses relating to the brokerage portion of its business are segregated from its other activities. Expenses that are common shall be allocated on an equitable basis; however, the broker must be prepared to explain the basis for the allocation.

[FR Doc. 80-32403 Filed 10-16-80; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1100

[Ex Parte 367]

Tariff Integrity Board

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Upon reconsideration, 49 CFR 1100.22a(e)(4) is being revised to provide for automatic stays of Tariff Integrity Board decisions when administrative appeals of the decisions are timely filed. The final rules adopted in this proceeding on October 10, 1979 (see 44 FR 58511), did not allow such stays. This action is being taken in response to a petition filed by Southern and Eastern Territory railroads to reopen this proceeding for reconsideration. Except for the revision of 49 CFR 1100.22a(e)(4) the petition is denied.

EFFECTIVE DATE: The revision is effective October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: Southern and Eastern Territory railroads (or petitioners) filed a petition for the reopening of this proceeding for reconsideration of our decision served on October 5, 1979, and published in the **Federal Register** on October 10, 1979, at 44 FR 58511. In that decision we adopted rules which allow tariff users a simplified and expedited procedure for challenging recently filed tariff publications believed to have been established in violation of: the

Commission's tariff regulations; provisions of the Interstate Commerce Act; and orders of the Commission or the courts. The challenges can result in the striking of the complained of tariff publications.

Background

Over the years, the Commission's tariff examination program has contemplated the thorough examination of all tariff matter filed with the Commission. That examination process provided a significant service to tariff users (the shipping/receiving community) since it worked to ensure tariff compliance with the Act, Commission and court orders, and our tariff publishing requirements. Tariffs filed in violation of those authorities were subject to rejection. That examination process also served tariffmakers since deficiencies in filed tariffs were brought to the attention of responsible tariff officials either for corrective action or for future guidance.

In recent years, however, the Commission has been faced with budgetary and personnel constraints. Therefore, beginning with fiscal year 1980, the Commission adjusted its tariff examination program in order to contend with the constraints. Initially, a random sampling examination program was implemented. The sampling program has since been discontinued, and a more limited program of title page examination has been adopted for not yet effective tariffs. Under the title page examination program, only the title pages of tariff filings are reviewed for violations of our tariff publishing requirements. The remaining pages of the tariff publications are not normally reviewed prior to publications' effective dates.

The Commission, however, believes it would be wholly inappropriate to abandon the services and safeguards it formerly offered to tariff users under its complete tariff examination program. In this regard, the Tariff Integrity Board (or T.I. Board) was established as an alternate methodology to protect the public from tariff deficiencies not detected under limited examination programs. In brief, upon complaint of tariff users, tariff matter judged by the Tariff Integrity Board to be so severely flawed as to be deemed unlawfully established may be ordered stricken. Thus, tariff users can continue to rely on the Commission to assure that tariff-makers meet their lawful obligations when constructing and filing tariffs.

The rules under which the T.I. Board operates became effective on October 10, 1979, upon publication in the **Federal Register**. The present petition seeks to reopen this proceeding for the purpose of amending the adopted rules to reflect the petitioners' views or to adopt a new set of rules previously proposed by the petitioners in their comments submitted in the rulemaking proceeding.

Discussion and Conclusions

Basically, the petitioners feel that the scope and powers of the T. I. Board are too broad. Specifically, petitioners hold that the Board's interests should "cover only inadvertent tariff publishing errors and not violations of the Act, court or Commission orders or other areas of substantive content." Taking petitioners literally, the Board would need to be endowed with clairvoyance to discern "inadvertent" publishing errors from those not "inadvertent." Further, to deny the T. I. Board the right to rectify violations of the Act, or Commission or court orders, would be tantamount to stripping the Commission of current powers whereby tariffs are rejected for such violations. For example, as a result of a Commission decision and order,[1] current regulations require the timely transmission of tariffs to subscribers. Moreover, tariff-makers are required to certify their compliance with this requirement. Under the former full tariff examination program, the observed absence of such certification could have resulted in the rejection of the filed publication. Under our limited examination, the absence of such certification might not be detected; and neither will the tariff users be aware of non-receipt of tariffs in a timely fashion. Under petitioners' plan, tariff subscribers would have no prompt remedy should they fail timely to receive a tariff filing containing matter contrary to their best interests; consequently, those tariff users would effectively be denied their right to protest new or changed tariff provisions. We cannot countenance such a voiding of our obligation to the tariff users. It is proper that the T. I. Board act on complaints concerning noncompliance with Commission and court decisions. This power is merely an amplification of the recognized right[2] of the Commission to reject tariffs filed in violation of an order of the courts or the Commission, whether or not the order is codified in regulations.

Neither can we subscribe to petitioners' plan that the T. I. Board not entertain complaints based on alleged violations of the Act. Under limited examination, tariffs filed on less than 30 days' notice (without Commission approval) could go undetected. Such publications would violate the statutory requirement of the Act that filings give not less than 30 days' notice. Again, absent the power of the T. I. Board, tariff users could be deprived of their right to protest. Again, we do not feel that we can relinquish our obligation to protect tariff users through assurance of compliance with statutory mandates.

Petitioners also express anxiety that the T. I. Board will consider the striking of challenged tariff filings on substantive grounds. We believe such anxiety is misplaced since the parameters of the Board's power to strike are identical to the parameters of the Commission's right to reject, namely—our tariff regulations, court or Commission orders and the Act itself. To the extent that challenged matter will be measured or interpreted against those authorities, the Board will deal with substantive issues. However, this process is no different than was formerly exercised when consideration was being given to rejection of tariffs under the former program of complete tariff examination of all filings to the Commission. Additionally, under the processes of the T. I. Board, tariff-makers are given a protection not previously enjoyed under rejection processes. Under the T. I. Board, tariff-makers have the right to respond to challenges against their tariffs. Thus, any invalid grounds relied on in support of possible strike action can be refuted by the tariff framers. The right to respond prior to rejection was never established under former processes. In summary, the authorities delegated to the T. I. Board in consideration of strike action do not exceed the long-standing authorities formerly relied on in consideration of rejection.

Petitioners contend that the power of the T. I. Board to strike tariffs *ex post facto* is a departure from past Commission policy and practice. We acknowledge this point in our prior decision served October 5, 1979. Thus, petitioners' real concern appears to run more against our right to adopt new or revised policy and practice than against our rationale for doing so.

It has been held that the Commission is free to make changes to accommodate its needs and those of the transportation community. In *American Trucking Associations* v. *Atchison, T. & S. F. Ry. Co.*, 387 U.S. 397 (1967), the following is stated at page 416:

> . . . the Commission, faced with new developments or in light of reconsideration of the relevant facts and its mandate, may alter its past administrative rulings and practice . . . In fact, although we make no judgment

[1] *Regulations For The Transmission Of Tariffs And Schedules To Subscribers And Other Interested Parties*, 349 I.C.C. 119 (1975).

[2] 49 CFR 1300.14(e)(1); 49 CFR 1310.1(i)(3).

as to the policy aspects of the Commission's action, this kind of flexibility and adaptability to changing needs and patterns of transportation is an essential part of the office of a regulatory agency. Regulatory agencies do not establish rules of conduct to last forever; they are supposed, within the limits of the law and of fair and prudent administration, to adapt their rules and practices to the Nation's needs in a volatile, changing economy. They are neither required nor supposed to regulate the present and the future within the inflexible limits of yesterday.

The strike authority of the T. I. Board is patterned after the rejection authority presently delegated to certain employees of the Commission's Bureau of Traffic. The delegation calls for the rejection of publications filed with the Bureau which fail to comply with the law and applicable rules and regulations. The rejections take place prior to effective dates. The delegation of authority to the T. I. Board allows it to strike tariff matter which it finds to have been unlawfully established. Such strike decisions—as has been true of rejection decisions—are appealable to a division of the Commission. Complaints which the T. I. Board finds to be highly controversial will likely be referred to the Commission's formal docket.

Past rejections which have been made subsequent to published effective dates have been the result of formal cases wherein tariff publishers and/or carriers have been unable to "show cause" why a particular tariff filing or portions of filings should not be rejected and stricken from the Commission's files. An example of this type of rejection/strike action is contained in *Acme Fast Freight, Inc., Common Carrier Application,* 17 MCC 549 (1939), sustained 30 F. Supp 968 (1940), affirmed 309 U.S. 638 (1940).

The following language is contained in the Commission's decision at pages 556 and 557:

> Section 217 further provides:
>
> * * * and the Commission is authorized to reject any tariff filed with it which is not a consonance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.
>
> Under this provision we may "reject" any tariff filed with us which is not in consonance with Section 217 and with our regulations thereunder. We may refuse to accept such a tariff at the time it is first transmitted to us for filing, and we think the provision is reasonably interpreted as granting us implied authority later to strike such a tariff from our files if and when it is determined that it is not in consonance with the section or the regulations thereunder. In several instances we have ordered tariffs stricken from our files. *Wharfage, Handling and Storage Charges,* 59 ICC 488, *Mercer Valley R. Co.* v. *Pennsylvania R. Co.,* 69 ICC 233, *Express Merchandise from Cincinnati, Ohio, to South,* 210 ICC 89, and *Pollard, Receiver* v. *Fort Benning R. Co.,* 206 ICC 362; compare *Powell* v. *United States,* 300 U.S. 276, 285. If tariffs are unlawful, as in *Express Merchandise from Cincinnati, Ohio, to South, supra,* they may not lawfully be used, have no proper place in our files, and may be expunged. If they are not required by statute to be filed, we are not bound to accept them, and if we should accept them upon misapprehension, or inadvertently without examination or without determination as to whether they are proper subjects for filing, we may later reject them and strike them from our files.

A recent example of the Commission's rejection/strike action in Docket No. 36870, *National Association of Specialized Carriers, Inc., Agent-Show Cause and Strike Order,* not printed (1978). In this particular case, the Commission rejected and struck from its files a tariff which was found to have been unlawfully established as a result of non-compliance with the Commission's regulations on the transmission of tariff publications published at 49 CFR 1310.31. The Commission held that since the tariff never had been lawfully established, it was invalid and therefore never applicable. Thus, the strike decision applied retroactively to the stricken tariff's effective date. This action is representative of that which has now been delegated to the T. I. Board.

The petitioners express a concern that tariffs will be stricken for the slightest of infractions. This certainly is not the case. Tariffs have been stricken in the past only for significant publishing or compliance errors. The T. I. Board will continue this practice. However, each case submitted to the T. I. Board will be considered on its own merits. What may be cause for a strike decision in one case may not necessarily be cause for a strike decision in another case.

The retroactive application of the T. I. Board's decisions and resulting overcharges or undercharges were matters of great criticism in the comments we received in this proceeding. This criticism was addressed in our earlier decision. However, the petitioners have again raised this issue and hold that the T. I. Board's decisions may not apply retroactively. Thus, overcharges and undercharges would not exist. The retroactive application of a strike decision is not something new. As pointed out earlier, such an application was used recently by a division of the Commission in Docket No. 36870. Further, an entire Commission made the following statement in *H. J. Baker & Bros., Inc.-Statute of Limitations,* 357 ICC 640 (1978), at page 644:

> The tariffs on file, although unlawful, specified the applicable rate which shippers were bound to pay, pursuant to the act. The act requires strict observance of the tariff regardless of the inherent unlawfulness of the rates specified. However, when and if the rates are shown to be unlawful for any reason, shippers are entitled to recover the difference between what they paid under the applicable tariff, and what is subsequently determined to be the lawful rate. Since the applicable rate cannot be deemed the lawful rate merely by virtue of being on file with the Commission, the argument of the Canadian railroads that the rates assessed were the lawful rates is without merit.

The amounts carriers or shippers may be liable for as a result of the T. I. Board's strike decisions are separate issues which would be dependent on the facts of each case. The T. I. Board does not resolve these issues, which may be resolved through the informal or formal complaint processes or through the courts.

Under the random sampling tariff examination program we expected that a certain number of unlawfully established tariffs would become effective. The substitution of our title page examination program in lieu of the more comprehensive random sampling program will undoubtedly lead to more such tariffs. Without the simplified and expedited complaint procedure of the T. I. Board, tariff users would be forced to file formal complaints with the Commission concerning alleged unlawfully established publications. We feel that the formal complaint alternative would be a needless burden upon complainants and this Commission's already crowded formal docket. The T. I. Board and its authority to strike unlawfully established tariff matter are needed in view of our changed regulatory approach and the need for a deterrent for those who might become careless or devious in their tariff publishing practices.

The petitioners feel that the filing of an exception to a decision of the T. I. Board should automatically stay the effectiveness of the decision. In our notice of final rules in this proceeding, we stated that the decisions of the T. I. Board will become effective when served. We believe that petitioners are correct and that T. I. Board decisions should be automatically stayed upon the filing of an appeal.

Section 10322 of the Act states that, in non-rail cases, if review is sought of an initial decision by a board or an employee, the decision is stayed or postponed pending final determination of the matter. Section 10327(f)(2) contains similar language for rail proceedings. Rule 98(b)(6) of the Commission's General Rules of Practice

(49 CFR 1100.98(b)(6)), as revised in Ex Parte No. 55 (Sub-No. 45), *Appellate Procedures*, decided July 2, 1980, provides for automatic stays of employee board decisions.

Although we believe the effectiveness of rejection decisions should not be unreasonably delayed and do not expect frequent appeals from such decisions, we see no compelling reasons not to provide the same automatic stay of rejection decisions as our General Rules of Practice provide when other employee decisions are appealed. Accordingly, Rule 22a(e)(4) (49 CFR 1100.22a(e)(4)) is revised to read as follows:

PART 1100—GENERAL RULES OF PRACTICE

§ 1100.22a Special procedures for dealing with unlawfully established tariffs or rates.

* * * * *

(e) Processing of complaints

(1) * * *

(2) * * *

(3) * * *

(4) An administrative appeal of the Tariff Integrity Board's decision may be taken, as appropriate, pursuant to Rules 96 and 98 of the rules of practice (49 CFR 1100.96 and 98). In accordance with rule 98(b)(6) of the rules of practice (49 CFR 1100.98(b)(6)), the Board's decision will be stayed automatically pending the Commission's action on appeal.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

The petition for reopening and reconsideration filed by Southern & Eastern Territory railroads in this proceeding is granted to the extent that it seeks a rule revision to allow automatic stays of Tariff Integrity Board decisions upon the timely filing of administrative appeals. In all other respects the petition is denied.

(49 U.S.C. 10321, 10762, 10304, and 10305, 5 U.S.C. 553 and 559)

Decided: September 25, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam dissenting with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, dissenting:

I would grant the petitioners' request for reopening and reconsideration based on material error. While I am not opposed to the concept of the Tariff Integrity Board, I believe that the delegation of authority is overly broad. Specifically, I am concerned that delegating the power to reject tariffs which are already in effect, will lead to a proliferation of this type of situation which was formerly a rare occurrence. I question whether the practice of tariff rejection after the fact is even legally or practically defensible.

First, there is the problem of ascertaining what was the legal rate in effect during the period of time the rejected tariff was on file with the Commission. If that uncertainty can be resolved, there is the question of remedy. It seems logical that if we are to find that a tariff was "invalid and therefore never applicable", then the carrier would have the burden of reimbursing all amounts collected under the rejected tariff. However, without a keep account order or even knowledge by the carrier of the identity of non-complaining shippers this becomes an impossible task. What makes it even more onerous is the fact that the tariff provision may be perfectly lawful but nevertheless rejected because it was technically filed incorrectly.

If the Commission even has the power to retroactively reject tariffs, which is debatable, I would retain it and exercise it with extreme caution.

[FR Doc. 80-32394 Filed 10-16-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Alabama, Louisiana, and Mississippi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Alabama, Louisiana, and Mississippi is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. In addition, managed big game hunts are designed to keep population levels compatible with habitat capabilities. This document establishes special regulations effective for the upcoming hunting seasons for certain migratory birds, upland game, and big game species.

DATES: Period covered—October 20, 1980 to May 30, 1981. See state regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Gary L. Hickman, Area Manager, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201, Telephone (601) 960–4900.

Acting Refuge Manager, Eufaula National Wildlife Refuge, Route 2, Box 97–B, Eufaula, Alabama 36027, Telephone 205/687–4065.

Refuge Manager, Delta National Wildlife Refuge, Venice, Louisiana 70091, Telephone: Pilottown 3–3232.

Refuge Manager, Morgan Brake National Wildlife Refuge, P.O. Box 107, Yazoo City, Mississippi 39194, Telephone: 601/746–8511.

SUPPLEMENTARY INFORMATION: Alton Dunaway is the primary author of these special regulations.

General Conditions

1. Hunting is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 32, all applicable state regulations, the general conditions, and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of special conditions applying to individual refuge hunts and a map of the hunt area(s) are available at each refuge headquarters. Portions of refuges which are closed to hunting are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specified areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

4. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any gauge is prohibited during such hunts.

5. Persons under 16 must be under the close supervision of an adult. For safety reasons each adult may not have more than two juveniles under his supervision.

6. Unless otherwise specified, dogs are not permitted on refuge areas during hunts. Exception: retriever dogs are allowed during waterfowl hunts, but they must be under control of the handler at all times.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Mississippi

Morgan Brake National Wildlife Refuge

(1) Ducks and coots only may be hunted on Monday, Wednesday, and Saturday mornings from one-half hour before sunrise to 12 noon during the State duck hunting season in Area II of the refuge, which is north of and including Morgan Brake bayou.

(2) Woodcock and snipe—State season.

§ 32.22 Special regulations; upland game hunting for individual wildlife refuge areas.

Louisiana

Delta National Wildlife Refuge

(1) Species permitted: rabbit only—October 20, 1980 through November 16, 1980, 8:00 a.m. to 4:30 p.m. daily.

(2) Permits are required.

(3) Shotguns only; loaded firearms in boats prohibited. Firearms may not be discharged within 250 yards of buildings or work sites.

(4) Camping is prohibited.

Mississippi

Morgan Brake National Wildlife Refuge

(1) Upland game hunting is permitted for rabbit, squirrel, raccoon, and opossum. Beaver may be taken as an incidental species.

(2) Seasons: rabbit—State season except dogs allowed only from February 1, 1981 through February 28, 1981; squirrel—State season; raccoon and opossum—November 1, 1980 through November 20, 1980 and January 16, 1981 through February 8, 1981. Hours for raccoon and opossum hunting are from 6:00 p.m. until 4:00 a.m.

(3) Sunday hunting is prohibited.

(4) Dogs are permitted during the raccoon and opossum hunts. Only beagles are permitted during the February 1, 1981 through February 28, 1981 rabbit hunt.

§ 32.32 Special regulations; big game hunting for individual wildlife refuge areas.

Alabama

Eufaula National Wildlife Refuge

(1) Archery deer hunt: October 20, 1980 through November 18, 1980. Either sex.

(2) Permanent tree stands are not permitted. No nails or spikes may be driven into trees. Portable stands may not be left overnight.

(3) Sunday hunting is prohibited.

Mississippi

Morgan Brake National Widlife Refuge

(1) Archery deer hunt: October 20, 1980 through remainder of State seasons. Primitive weapons deer hunt: State season. Gun deer still hunt: December 13, 1980 through December 26, 1980.

(2) Dogs and "driving" deer prohibited.

(3) Portable tree stands only. Metal objects may not be driven into trees.

(4) Sunday hunting is prohibited.

The provisions of these special regulations supplement the regulations which generally govern hunting on wildlife refuge areas and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: October 10, 1980.

Wendell A. Neal,

Acting Area Manager.

[FR Doc. 80-32405 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 203
Friday, October 17, 1980

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 305

Intragovernmental Communications in Informal Rulemaking Proceedings; Draft Recommendations

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments on draft recommendations.

SUMMARY: The Administrative Conference's Committee on Agency Decisional Processes has under consideration draft recommendations on intragovernmental communications in informal rulemaking proceedings. Interested persons are invited to comment on the draft recommendations.

DATE: Comments due by November 5, 1980.

ADDRESS: Send comments to Charles R. Pouncy, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037 (202–254–7065).

FOR FURTHER INFORMATION CONTACT: Charles R. Pouncy (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Agency Decisional Processes has under consideration draft recommendations on intragovernmental communications in informal rulemaking proceedings, based on a report prepared by Dean Paul Verkuil of the Tulane University School of Law.

The proposed recommendations are addressed to agencies that engage in informal rulemaking. These recommendations seek to clarify the appropriate communications relationship among both executive branch and independent agencies and among these agencies and the President, his or her advisors, and units of the Executive Office during informal rulemaking, and are based on the conclusion that communication among these units of the Executive Branch during informal rulemaking is both proper and desirable.

The draft recommendation is subject to comment by affected agencies and other interested persons and organizations and then to further consideration by the Committee on Agency Decisional Processes, the Council of the Administrative Conference, and the Assembly of the Conference at Plenary Session.

The Committee would be particularly interested in comment concerning the recommendations' applicability to independent agencies (references to independent agencies appear in brackets).

PROPOSED RECOMMENDATION

Intragovernmental Communications in Informal Rulemaking Proceedings

Preamble

The growing complexity and scope of government regulation have increased the importance of communication and coordination among agencies. Because the President, as the nation's Chief Executive, may be deemed accountable for what agencies do, efforts to achieve policy coordination through Presidential channels have become increasingly significant.

When dealing with Executive branch agencies, the President has undoubted constitutional power to execute the laws and direct his subordinates. In recent years he has attempted to do this through a variety of analytical and procedural mechanisms, such as the promulgation of Executive Order 12044 and establishment of the Regulatory Analysis Review Group and the Regulatory Council. The exercise of Presidential direction has not been limited to the establishment of general mechanisms, however. The President, his advisors, and units of the Executive Office have also on occasion intervened directly in the formation of policy during particular rulemaking proceedings. This intervention has raised questions by private participants about the manner in which the power of direct executive oversight should be exercised.

[When dealing with independent agencies, the President has undoubted consitutional power to inform them of his policy views on issues within their respective jurisdictions. Here again the important question concerns the manner in which the President, his advisors, and units of the Executive Office communicate their opinions concerning the position the agency should adopt.]

This recommendation sets forth the views of the Administrative Conference concerning the appropriate communications relationship among [both] executive branch [and independent] agencies and among these agencies and the President, his advisors, and units of the Executive Office when policy decisions are made through the process of informal rulemaking. It pertains to rulemaking of general applicability, not to proceedings (whether rulemaking or adjudication) that involve the distribution, modification or revocation of valuable privileges to identifiable private interests. To some degree it is a corollary to ACUS Recommendation 77–3 which dealt with restrictions upon private participant's oral and written communication in informal rulemaking. The recommendation is harmonious with the views of the Office of Legal Counsel of the Department of Justice concerning the legal requirements applicable to such communications in rulemaking proceedings.

The recommendation is based upon the need to accommodate two competing elements of a good rulemaking process. The first is the desirability of being able to identify a coherent body of information upon which the rulemaking agency's decision is based, and to make this information available to all—other participants in the process, the staff of the agency itself, and reviewing courts. The second is the desirability of affording government officials opportunity to engage in uninhibited internal debate over the policy implications of this body of information, subject only to the requirement that the ultimate conclusion be rational and adequately explained.

This recommendation recognizes both these principles. Rulemaking agencies should not permit, and other units of the government should not request, any opportunity to introduce into the proceeding substantive information not made available to other participants. At the same time, units of the government other than the one conducting the rulemaking proceeding may have a perspective or expertise not readily available to the rulemaking agency that would enhance the quality of the internal debate on the implications of

the information in the rulemaking record, and their participation should be encouraged.

The recommendation is also concerned with avoiding any possibility that participants from outside the rulemaking agency might act as secret or inadvertent conduits for significant new information, and with insuring that other participants have an adequate opportunity to respond to significant substantive information that is introduced.

[The recommendation encompasses the relationships of the institutional Presidency and Executive branch agencies to independent agencies. Like Executive branch agencies, the independent agencies should not rely on substantive information not available to all participants in a rulemaking proceeding, but neither should they be forced to reject any improvement in their deliberative process that could be provided by officials from other parts of the government. The Conference recognizes that a distinction has long been drawn between independent and executive agencies in so far as Presidential control is concerned, but it does not believe that the principle of independence would be violated by the practices recommended. The independence of these agencies is adequately protected by the fact that the President can neither over rule an agency's final decision nor remove its members.]

The final part of the recommendation expresses the Conference's views on the general principle that should govern judicial review in the area. It does not believe that repetitive inquiry into who participated in an agency's policymaking process or whether a stray fact might have slipped into the deliberations is either necessary of fruitful.

Recommendation

In informal rulemaking proceedings by Executive branch [and independent] agencies:

1. The President, his advisors, the Executive Office of the President, and agencies other than the rulemaking agency should remain free to communicate policy recommendations in written or oral form to the rulemaking agency without having the fact or substance of these intragovernmental communications made public, so long as the communications do not involve the introduction of significant substantive information not already a part of the rulemaking record.

2. Written communications, and summaries of oral communications, from the President, his advisor, the Executive Office of the President or agencies other than the rulemaking agency containing significant substantive information not already a part of the rulemaking record of the proceeding should be placed promptly in that record by the rulemaking agency. However, all communications containing or reflecting comments by persons outside the government which are transmitted to the rulemaking agency by these sources should be identified and placed in the record of the proceeding regardless of their content.

3. If the President, his advisors, units of the Executive Office or an agency other than the rulemaking agency participate in a rulemaking pursuant to paragraph 1, all communications received by the participant from persons outside the government containing significant substantive information not already a part of the rulemaking record should be sent to the rulemaking agency for inclusion in that record.

4. Any material placed in the rulemaking record pursuant to paragraphs 2 and 3 should be made available within the time limits specified for public comment. When materials of these types are introduced at or after the end of the comment period, then agencies should be mindful of the desirability as a rule of giving nongovernment participants adequate opportunity to respond if the material presents new and important issues or create serious conflicts of data.

5. Judicial review of a final rule should focus on the adequacy of the materials before the rulemaking agency and the agency's consideration of them, not upon the fact or extent of participation in the rulemaking process by the President, his advisors, the Executive Office of the President, or agencies other than the rulemaking agency.

Richard K. Berg,

Executive Secretary.

October 15, 1980.

[FR Doc. 80-32546 Filed 10-16-80; 8:45 am]

BILLING CODE 6110-01-M

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1 CFR Part 305

Separation of Functions in Agency Proceedings; Draft Recommendation

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments on draft recommendations.

SUMMARY: The Administrative Conference's Select Committee on Ex Parte Communications has under consideration draft recommendations on separation of functions in agency proceedings. Interested persons are invited to comment on the draft recommendations.

DATE: Comments due by November 5, 1980.

ADDRESS: Send comments to Jeffrey Lubbers, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037 (202-254-7065).

FOR FURTHER INFORMATION CONTACT: Jeffrey Lubbers (202-254-7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference's Select Committee on Ex Parte Communications has under consideration draft recommendations on separation of functions in agency proceedings, based on a report prepared by Professor Michael Asimow of the UCLA School of Law.

The proposed recommendations are addressed to agencies that engage in administrative adjudicative or rulemaking proceedings. With respect to formal adjudications, the recommendation seeks to provide guidance on a system of separation of functions, consistent with the requirements of the Administrative Procedure Act, that will achieve the basic purposes of separation without imposing undue costs on agencies. With respect to proceedings for making rules of general applicability, the proposal urges no separation of functions; instead it recommends that staff communications containing significant information be placed on the public record.

The draft recommendation is subject to comment by affected agencies and other interested persons and organizations and then to further consideration by the Select Committee on Ex Parte Communications, the Council of the Administrative Conference, and the Assembly of the Conference at Plenary Session.

PROPOSED RECOMMENDATION

Separation of Functions in Agency Proceedings

Preamble

Separation of functions is a principle of administrative law that calls for exclusion from the agency's decision-making process of those staff members who have performed a role in that case, such as advocacy, negotiation, or investigation, which would be likely to commit them to a particular result.

This principle is implemented in section 554(d) of the Administrative Procedure Act which precludes agency prosecutors or investigators from participating or advising off-the-record

in the decision of certain formal adjudications. As a matter of practice, however, separation of functions is observed in virtually all individualized on-the-record proceedings, even though not required by section 554(d). The Administrative Conference has recommended that the APA be amended to extend the provisions of section 554(d) to all on-the-record proceedings. [Resolution No. 3, 1 CFR § 310.2 (1973)].

Separation of functions is designed to achieve certain objectives. The most important rationale is to protect the neutrality of decision-makers by screening out advice from staff members whose personal involvement in the case is likely to impair their objectivity. In addition, separation of functions helps to avoid infusion of irrelevant criteria and non-record factual inputs into the decision-making process. It also safeguards adversary values and expectations. However, separation of functions, particularly in large and complex cases, entails certain costs. For example, it often precludes decision-makers from obtaining advice from the best qualified staff adviser because the expert is an adversary. Separation of functions can seriously interfere with the ability of agency heads to control important cases, to set policy and to become aware of emerging problems. It can cause serious delays, costly duplication of staff, and confusion about what communications are permissible, and it can interfere with other agency functions carried on concurrently with the proceeding in question.

Separation of functions need not be applied on an all-or-nothing basis; numerous distinctions can be drawn between the different roles of staff members, different types of communication, different types of proceedings, and different stages of the proceedings. It is the purpose of Part A to provide guidance on a system of separation of functions which will achieve the basic goals of separation in individualized on-the-record proceedings without imposing undue costs upon agencies and upon the decision-making function in such proceedings.

In agency proceedings for making rules of general rather than particular applicability (regardless of whether trial-type procedures are employed), the costs of separating functions increase and the reasons for doing so are much less compelling. In proceedings directed at general problems rather than particular respondents, the outcome is likely to be determined by information of a general nature and by broad policy considerations. It is often difficult even to identify the staff members who would be considered adversaries; moreover, participation in such proceedings is less likely to produce a "will to win" which would impair the ability of the staff member to furnish objective advice. Furthermore, because of the complexity of the facts, the bulk of the record, the great variety of interests affected, and the magnitude of the effects of such rules, the value of according to each participant the procedural parity common to individualized proceedings must yield to the agency's need to avail itself fully of staff expertise. The Conference has previously urged that Congress not require on-the-record, trial-type procedures for making rules of general applicability (Recommendation 72–5). Whether the rulemaking procedure followed is formal, hybrid, or informal notice-and-comment, we do not believe separation of functions should ordinarily be employed.

However, even informal rulemaking has developed into a process involving a structured exchange of views. In such a proceeding all centrally relevant data in the agency's possession should be disclosed for outsiders to comment on and criticize, and the agency's statement of basis and purpose, issued with the rule, should respond to all material comments and criticisms. In reviewing the rule, courts are limited to the record before the agency and, to an increasing extent, agencies are inhibited from adding material to that record which has not been subjected to scrutiny by outsiders during the rulemaking process. This structured rulemaking process and record-oriented judicial review can be undermined by off-the-record informational communications by staff members to decisionmakers. However, such communications from participating staff members which represent policy advice, assistance in analyzing the record, or similar non-evidentiary inputs, are valuable to the agency and do not undermine the integrity of the rulemaking process or judicial review. Part B is intended to require critical informational inputs from the staff to be placed on the record.

Part A

Separation of Functions in Formal Adjudications and Other Individualized On-the-Record Proceedings

1. The principle of separation of functions, as defined in section 554(d) of the Administrative Procedure Act, should be applied not only in those cases of formal adjudication now governed by section 554(d), but also in proceedings involving individualized, non-accusatory decision-making where the agency determination is required by law a custom to be made on the record after opportunity for a hearing. These cases typically include initial licensing, setting or determining the validity of an individual carrier's or utility's rates, approval of financial transactions or of market entry or exit. In such proceedings, staff members with significant involvement as adversaries in the case (or a factually related case) should not advise or otherwise participate in the decision, except through an on-the-record presentation.

2. Whether or not a proceeding is governed by section 554(d), agencies should comply with the following guidelines in applying the principle of separation of functions:

(a) An "adversary" for purposes of separation of functions is a staff member who has taken a significant part in negotiating, preparing, or advocating one side of a case in a way which makes likely a personal commitment to a particular result. Whether such involvement occurs before or after the matter is designated for a hearing should not be determinative.

(1) A person whose only involvement in the case is his institutional relationship to an adversary (i.e., as a supervisor, colleague, or subordinate) should not be considered an adversary.

(2) Staff members who serve as witnesses at the hearing, or who have given expert advice to a staff adversary, should not be disqualified unless they have become adversaries themselves (for example, by participating in planning litigation strategy), or, in the case of witnesses, unless the credibility of their testimony is a significant issue in the case.

(3) Staff members who assist agency decision-makers in deciding whether to launch an investigation or designate a matter for hearing, or in framing the issues or proposed remedies to be considered at the hearing, should not be considered adversaries unless they have significant additional adversary involvement (e.g., in negotiating, investigating, or advocating the staff's position).

(4) Staff members who as a result of taking a position on the substantive merits in a judicial proceeding have become personally committed to a particular result should be treated as adversaries.

(5) Staff members who help the agency prepare for a nonadversarial phase of a proceeding (such as an informal public meeting, budgeting, informal rulemaking, or providing Congressional testimony) should not be treated as adversaries.

(b) Persons who are classified as adversaries should nevertheless be available to advise decision-makers under certain circumstances.

(1) Adversaries may appropriately advise decision-makers on predesignation issues (such as those mentioned in (a)(3)).

(2) Adversaries should be available to advise decision-makers about non-adversarial phases of the proceeding (such as those mentioned in (a)(5)).

(3) Adversaries and agency decision-makers may communicate regarding the merits of the case if they do so on the record, without prior notice to outsiders and without providing an immediate opportunity to respond, so long as an adequate opportunity is provided for an effective response.

(4) Agency heads should not permit separation of functions to isolate them from problems arising in pending proceedings, particularly those which involve unusually important issues or substantial commitments of agency resources. Mechanisms which would enable agency heads to assert control over the course of such proceedings include:

(i) Conferences with all parties to a proceeding;

(ii) Consultation with the presiding administrative law judge (on matters other than facts in issue);

(iii) Interlocutory appeals or certification of questions to the agency.

(iv) In appropriate cases the agency heads and the adversary staff might be permitted to communicate off-the-record about procedural matters, adding or dropping issues, settling or abandoning the case, or providing or obtaining guidance on policy matters, provided that the adversaries refrain from advocacy on substantive issues or interjection of non-record information. Such off-the-record channels of communications should ordinarily be available only in the early stages of a case and in no event after the conclusion of the hearings before the ALJ.

(c) In proceedings involving the imposition of sanctions for unlawful conduct, agencies may wish to impose more rigid separation of functions, and should generally do so in such proceedings where it would not impose an undue burden on the agency.

Part B

Rulemaking of General Applicability

In making rules of general applicability, whether informal, hybrid, or informal proceedings, agencies should not ordinarily apply the principle of separation of functions. Instead, they should permit free consultation between agency staff and decision-makers, while ensuring that the rulemaking record adequately reflects all the relevant information before the agency.

(1) Staff communications which convey significant new information of central relevance to the rule should be placed into the rulemaking record in time to provide the public with adequate opportunity to respond.

(2) All staff members should ordinarily be available to the decisionmakers for off-the-record policy advice or assistance in evaluating the rulemaking record. However, where, under agency practice, a staff member or unit is assigned a rule as proponent of the proposed rule or of a specific point of view or interest in the proceeding, the agency should minimize its reliance on off-the-record communication with that member or unit.

(a) In distinguishing between informational and non-informational communications, agencies should consider the developing law under exemption (b)(5) of the Freedom of Information Act.

(b) Agencies should continue to have discretion not to disclose factual information relevant to the rulemaking which is privileged from disclosure by other exemptions of the Freedom of Information Act.

Richard K. Berg,

Executive Secretary.

October 15, 1980.

[FR Doc. 80-32545 Filed 10-16-80; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 906 and 944

Handling Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Fruits; Import Regulations; Proposed Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: This notice invites written comment on a proposal that would establish minimum grade and size requirements for Texas oranges and grapefruit, and for imported oranges, for the period November 10, 1980, through November 8, 1981. The proposed action is designed to assure shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers.

DATES: Comments must be received on or before November 3, 1980.

ADDRESSES: Send two copies of comments to: Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Draft Impact Analysis relative to this proposed action is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and is classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

The Department is considering issuing the proposed Texas orange and grapefruit regulation under the marketing agreement, as amended, and Order 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed orange import regulation would be issued under section 8e (7 U.S.C. 608e-1) of this act, as required. The proposed grade and size requirements applicable to Texas oranges and grapefruit were recommended by the Texas Valley Citrus Committee which locally administers this marketing order program, and they reflect its appraisal of the need for regulating shipments during the specified period based on the available supply and current and prospective market demand conditions.

The committee estimates the 1980-81 season Texas orange crop at 4,850,000 boxes (85 pounds net weight), up 20 percent from last season, and the 1980-81 season Texas grapefruit crop at 8,625,000 boxes (80 pounds net weight), up 9 percent from last season. The committee reports that this season's orange crop is of good quality and fruit sizes should be larger than normal, while the quality of the grapefruit crop is generally good to excellent. High winds from Hurricane Allen resulted in some fruit loss, especially grapefruit, but the

storm provided much needed moisture and cooler temperatures, which should contribute to larger sizes and increased tonnage on the remaining fruit.

The committee estimates that about 50 percent of the Texas orange crop, and 60 percent of the Texas grapefruit crop will be marketed as fresh fruit. In addition to the regulated domestic market (United States, Canada, and Mexico), Texas oranges are sold in the fresh export market, the processed products market, and the local unregulated market within the production area. Fresh shipments of Texas oranges and grapefruit meet considerable competition in major markets from citrus produced in other areas of the country. This season, 2.5 percent of the nation's orange supply and 12.0 percent of the nation's grapefruit supply is expected to be produced in Texas.

The proposed regulations read as follows:

§ 906.363 Texas Orange and Grapefruit Regulation 32.

(a) During the period November 10, 1980, through November 8, 1981, no handler shall handle any variety of oranges or grapefruit grown in the production area unless:

(1) Such oranges grade U.S. Fancy, U.S. No.1, U.S. No.1 Bright, U.S. No.1 Bronze, U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No.1), or U.S. No.2;

(2) Such oranges are at least pack size 288, as such size is specified in § 2851.691(c) of the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 288 oranges in any lot shall be 2–6/16 inches;

(3) Such grapefruit grade U.S. Fancy, U.S. No.1, U.S. No.1 Bright, U.S. No.1 Bronze, or U.S. No. 2;

(4) Such grapefruit are at least pack size 96, as such size is specified in § 2851.630(c) of the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3–9/16 inches: *Provided,* That any handler may handle grapefruit smaller than pack size 96, provided such grapefruit grade at least U.S. No.1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3–5/16 inches;

(5) An appropriate inspection certificate has been issued for such fruit within 48 hours prior to the time of shipment; and

(6) The fruit meets all the applicable container and pack requirements effective under this marketing order.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and diameter shall mean the same as in the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.680–2851.714) or in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.620–2851.653).

§ 944.310 Orange Import Regulation 11.

(a) *Applicability to imports.* Pursuant to § 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any oranges is prohibited during the period November 10, 1980, through November 8, 1981, unless such oranges meet the minimum grade and size requirements specified in paragraphs (a)(1) and (a)(2) of § 906.363 Texas Orange and Grapefruit Regulation 32.

(b) It is hereby determined that oranges imported into the United States are in most direct competition with oranges grown in the Lower Rio Grande Valley in Texas, and that the grade and size requirements specified in this section are the same as those being made effective for Texas oranges in § 906.363.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of oranges that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective Service, applicable to the particular shipment of oranges, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) *Minimum quantity exemption:* Any person may import up to ten 7/10 bushel cartons, or equivalent quantity, of oranges exempt from the requirements specified in this section, except for oranges which have been inspected and found not to meet such requirements.

(f) No provisions of this section shall supersede the restrictions or prohibitions on oranges under the Plant Quarantine Act of 1912.

(g) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of oranges for the purpose of making it eligible for importation. Any lot of oranges or portion thereof which subsequently fails to meet the grade or size requirements specified herein may not be imported. Disposal of such fruit at the port of entry shall be certified by the Federal or Federal-State Inspection Service. Costs of certifying the disposal of rejected oranges shall be borne by the importer.

Dated: October 14, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-32412 Filed 10-16-80; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1940

Relocation and Real Property Acquisition

[FCDA No. 10.405, Farm Labor Housing Loans and Grants; 10.409, Irrigation, Drainage, and other Soil and Water Conservation Loans; 10.411, Rural Housing Site Loans; 10.414, Resource Conservation and Development Loans; 10.415, Rural Rental Housing Loans; 10.418, Water and Waste Disposal Systems for Rural Communities; 10.419, Watershed Protection and Flood Prevention Loans; 10.420, Rural Self-Help Housing Technical Assistance; 10.423, Community Facilities Loans; 10.424, Industrial Development Grants; 10.426, Area Development Assistance Planning Grants; 10.427, Rural Rental Assistance Payments; 10.430, Energy Impacted Area Development Assistance Program; 10.431, Technical and Supervisory Assistance Grants]

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) is proposing to add regulations outlining the requirements for implementation of a Public Law. The intended effect of this action is to provide relocation assistance to those persons affected

through displacement as a result of Federal or Federally financially assisted programs.

DATE: Comments must be received on or before December 16, 1980.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Glendon D. Deal, Environmental and Technology Staff, Room 6305, S. Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Telephone: (202)–447–3394.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the Office of the Chief, Directives Management Branch, Room 6346, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. Telephone: (202)–447–4057.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." The Farmers Home Administration proposes to add a new Part 1940 "General" and Subpart R, "Relocation and Real Property Acquisition," to Subchapter H, Chapter XVIII, Title 7 in the Code of Federal Regulations. This Subpart will provide the Agency regulations required for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646. The major provisions of this regulation are as follows:

1. Only loans and grants to State agencies and direct land acquisitions by FmHA are covered by the provisions of this Subpart.

2. Section 1940.866 describes the agency's proposed regulation concerning acquisition of real property by a State agency as part of an FmHA financially assisted project.

3. Section 1940.870 describes the agency's proposed policy regarding a displaced person's moving and related expenses.

4. Section 1940.872 describes proposed regulations regarding replacement housing for displaced persons.

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

Therefore, as proposed, Part 1940 Subpart R reads as follows:

PART 1940—GENERAL

Subpart R—Relocation and Real Property Acquisition

Sec.

1940.851 Purpose.
1940.852 General policy.
1940.853 Scope.
1940.854–1940.858 [Reserved]
1940.859 Definitions.
1940.860 Federal financially assisted projects.
1940.861–1940.865 [Reserved]
1940.866 Real property acquisition.
1940.667–1940.669 [Reserved]
1940.870 Moving and related expenses.
1940.871 [Reserved]
1940.872 Replacement housing—general.
1940.873 Replacement housing for homeowners (over 180 days) displaced from conventional dwellings.
1940.874 Replacement housing for tenants and certain others (over 90 days) displaced from conventional dwellings.
1940.875 Replacement housing for mobile home occupants.
1940.876–1940.878 [Reserved]
1940.879 Relocation assistance advisory services.
1940.880–1940.900 [Reserved]

Authority: 42 U.S.C. 4633, 42 U.S.C. 1480; 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CRF 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

PART 1940—GENERAL

Subpart R—Relocation and Real Property Acquisition

§ 1940.851 Purpose

This Subpart provides Farmers Home Administration (FmHA) policies, procedures, and guidelines for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646 (84 Stat. 1894), effective January 2, 1971. the Act provides for uniform and equitable treatment of persons displaced from their homes, businesses or farms by Federal and Federally financial assisted programs and establishes uniform and equitable land acquisition policies for Federal and Federal financially assisted programs. Any claims made under the Act shall be adjudicated on the basis of this Subpart.

§ 1940.852 General policy.

(a) *Applications for relocation assistance payment.* A displaced person, business, or farm operation must apply to the displacing agency for relocation assistance payments within 18 months from the date on which the move was made from the real property acquired or to be acquired, or the date on which the acquiring agency makes final payment of all costs of acquiring that real property, whichever is the later date. The displacing agency may extend this period upon showing of good cause. Prompt payment will be made after a move and submittal of proper application. Advanced pyment may be made if the displacing agency determines that delaying payment until after the move will create a hardship.

(b) *Use of Standard forms.* The Standard Forms (SF) listed below may be used as appropriate when applying for payments under this Subpart. SF's recommended for use, and the sections to which they apply are as follows:

(1) SF–267, "Claim for Reimbursement of Expenses Incidental to Conveyance of Real Property": § 1940.866 (g).

(2) SF–262, "Claim for Moving Costs and Related Expenses—Families and Individuals": § 1940.870.

(3) SF–263, "Claim for Moving Costs and Related Expenses"—Business (Including nonprofit organizations) and Farm Operations: § 1940.870.

(i) Schedule A: § 1940.870 (c) and (e).

(ii) Schedule B: § 1940.870 (f).

(iii) Schedule C: § 1940.870 (g)

(iv) Schedule D: § 1940.870 (d) with the exception that average annual net earnings will be determined in accordance with § 1940.870 (h) of this Subpart.

(4) SF–264, "Claim for Replacement Housing Payment for Homeowners": § 1940.83.

(5) SF–265, "Claim for Supplemental Rental Assistance Payment for Replacement Housing": § 1940.874.

(6) SF–266, "Claim for downpayment and Incidental Expenses for Replacement Housing": § 1940.874

(c) *Appeal Rights.* Any persons aggrieved by a determination as to eligibility for a relocation payment, or the amount of a payment in a project receiving FmHA assistance, may have their applications reviewed by the head of the displacing agency.

(d) *Displacement prerequisites.* A displacing agency shall take no action that will result in a displacement until the following conditions are met:

(1) *Assurance of a comparable replacement dwelling.* No phase of any project will be initiated or continued if that phase will cause the displacement of any individual or family from a dwelling until the displacing agency has determined, on the basis of a current survey and analysis of available comparable replacement dwelling, that prior to displacement a comparable replacement dwelling will be available

for each such displaced individual or family.

(2) *Receipt of a displacement notice.* Each individual, family, business, or farm operation to be displaced must be given a written notice of displacement. The notice shall be served personally or by certified or registered first-class mail not later than initiation of negotiations.

(3) *Payment for real property.* An owner will not be required to surrender possession of the real property acquired until the acquiring agency has paid the agreed purchase price, or deposited with the court for the benefit of the owner, an amount not less than the approved appraisal of the real property being acquired.

(4) *Receipt of a notice to vacate.* The construction or development of a project will be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a comparable replacement dwelling will be available), or to move a business or farm operation without at least 90 days written notice prior to the date on which such move is required. The notice shall be served personally or by certified or registered first-class mail. A notice of less than 90 days may be given only in an emergency or other extraordinary situation, or when the personal property to be moved is not associated with a displacement from a dwelling, business, or farm operation. When it is proposed to give an advance notice less than 90 days, the prior approval of the Administrator will be obtained.

(e) *Criteria for new construction and loans.*

(1) If the Administrator determines that adequate comparable replacement dwellings are not available, action may be taken by the Administrator or the Administrator may approve action by a State agency to develop replacement dwellings. Any action taken or approved shall be in accordance with the guidelines issued by the Secretary of HUD.

(2) The Administrator shall be guided by the criteria and procedures developed by the Secretary of HUD when providing loans to eligible borrowers for planning and other preliminary expenses for additional housing for displaced persons.

(f) *Coordination among agencies.*

(1) When more than one Federal, departmental, or State agency is causing the displacement in a community or an area, the displacing agency receiving FmHA financial assistance shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of sale and rental housing in the community or area.

(2) When more than one agency administering a relocation assistance advisory program may be of assistance in the community or area to displaced persons, all agencies shall cooperate so as to eliminate duplication while combining forces in assuring uniform application of the Act so that all displaced persons receive the maximum assistance available to them.

(g) *Nondiscrimination.* The procedures, guidelines and policies contained in this Instruction, and any benefits accruing therefrom, will be applied equally without regard to race, color, religion, sex, national origin, age, marital status, or handicap providing the individual has the capacity to enter into a legal contract.

§ 1940.853 Scope.

This Subpart is to be used by the FmHA Approval Officials in implementing the provisions of the Act. In addition, FmHA will consult with appropriate Federal, State, and local agencies, other organizations, and individuals to assess the displacement impact of any proposed FmHA action. Only FmHA loans and grants to State agencies and direct land acquisitions by FmHA are covered by the provisions of this Subpart.

§ 1940.854—1940.858 [Reserved]

§ 1940.859 Definitions.

For purposes of this Subpart the following definitions apply.

(a) *Administrator.* The Administrator of FmHA or a designated representative.

(b) *Appraiser.* A person with the appropriate professional designation as issued by the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, or other recognized authority, such as a FmHA Qualified Appraiser, and experience in the subject area being appraised.

(c) *Approval official.* The person within FmHA who has Federal financial assistance approval authority as stated in Part 1901 Subpart A, which is available in any FmHA office.

(d) *Business.*

(1) Any lawful activity, excepting a farm operation, conducted primarily:

(i) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, marketing of products, commodities, or any other personnel property; or

(ii) For the sale of services to the public; or

(iii) By a nonprofit organization; or

(iv) Solely for the purpose of § 1940.870 (c), outdoor advertising signs erected and maintained for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services, whether or not located on the premises of the foregoing businesses.

(2) During the two taxable years prior to displacement, or during such other period as the approval official determines to be more equitable, the business as described in paragraph (d)(1)(i), (ii) or (iii) of this section must have:

(i) Had average annual gross receipts of at least $2,000 in value; or

(ii) Had average annual net earnings of at least $1,000 in value (see § 1940.870 (h)); or

(iii) Contributed at least one-third of the average annual gross income of the owner(s), including income from all sources such as welfare, if any.

(e) *Comparable replacement dwelling.* A dwelling which is decent, safe, and sanitary and is:

(1) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(2) Open to all persons regardless of race, color, religion, age, marital status, sex, or national origin and consistent with the requirements of Title VIII of the Civil Rights Act of 1968.

(3) In an area not generally less desirable than the dwelling to be acquired in regard to neighborhood conditions, including, but not limited to, municipal services and other environmental factors, and public, commercial, and community facilities, in an area not subjected to unreasonable adverse environmental conditions from either natural or man-made sources.

(4) Reasonably accessible to the displaced person's place of employment.

(5) Available on the market to the displaced person at rents or prices within the financial means of the displaced person.

(6) Adequate in size to meet the needs of the displaced family or individual. At the option of the displaced person, a replacement dwelling may exceed actual need when the replacement dwelling has the approximate square footage as the dwelling from which the person was displaced.

(f) *Decent, safe, and sanitary dwelling.* A dwelling which is clean, in good repair, and in sound and weather tight condition, which meets local housing codes, if any, and requirements of § 1804.3 (d) of Part 1804 Subpart A (paragraph III D of FmHA Instruction 424.1), and also meets the following requirements.

(1) *Housekeeping unit.* A housekeeping unit must include a

kitchen with fully useable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; and adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living.

(g) *Displacing agency.* A State agency which acquires real property for an FmHA financially assisted project causing the displacement of a person or persons.

(h) *Displaced person.* Any person who moves from a real property, or moves personal property from real property, as a result of the actual acquisition of such real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program or project undertaken with Federal financial assistance provided by FmHA. If a person moves as a result of such a notice it makes no difference whether or not the real property actually is acquired.

(i) *Displacement notice.* A written notice given to persons who may be displaced as a result of a proposed acquisition. This notice shall state the acquiring agency's desire to acquire the property and notify the persons of their rights under the Act and these regulations if they are displaced. The notice shall be given to such persons not later than the initiation of negotiations for the property to be acquired.

(j) *Dwelling.* Dwelling includes a single family building; a one family unit in a multi-family building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost. For purposes of § 1940.873, 1940.874, and 1940.875 of this Subpart, the term "dwelling" shall mean the place of permanent abode of a person and does not include seasonal or part-time dwelling units such as beach houses, mountain or other vacation cabins.

(k) *Economic rent.* The amount of rent the displaced person would have had to pay for a similar dwelling located in an area not generally less desirable that the location of the dwelling to be acquired.

(l) *Family.* Two or more individuals living together in the same dwelling as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship. Others who live together as a family unit will be treated as a family.

(m) *Farm operation.* Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. The activity is capable of contributing materially if, during the immediately preceding two-year period or the period of operation, whichever is the lesser, or during such other period of operation, whichever is the lesser, or during such other period as the approval official determines to be more equitable, the value of sales and the market value of home use contributes:

(1) Average annual gross receipts of at least $2,000 in value; or

(2) Average annual net earnings of at least $1,000 in value (see 1940.870 (h)); or

(3) At least one-third of the average annual gross income of the owner(s) including income from all sources, such as welfare, if any.

(n) *FmHA financially assisted program or project.* Any program or project administered by FmHA or by a State agency in which a grant, loan, or contribution is provided to the State agency by FmHA. *FmHA contracts of guaranty are excluded.*

(o) *Financial means.* The ability of a displaced family or individual to afford a replacement dwelling without jeopardizing the other needs of the displaced family or individual such as food, clothing, child care, and medical expenses. For purposes of this Subpart, the average housing cost (monthly mortgage or rental payments, insurance for the dwelling unit, property taxes, utilities, and other reasonable recurring related expenses) which the displaced family or individual will be required to pay should generally be less than 25 percent of the monthly gross income or the present ratio of housing payment to income including supplemental payments made by public agencies.

(p) *Initiation of negotiations.* The date the displacing agency furnishes the property owner or a representative a written offer to purchase or otherwise acquire the real property.

(q) *Mortgage.* Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the law of the State in which the real property is located, together with the credit instruments, if any secured thereby.

(r) *Notice to vacate.* A written notice to the persons to be displaced of the date by which they must have moved from the property being acquired.

(s) *Owner.* A person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgement of the displacing agency, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interest by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, or the succeeding owner shall include the tenure of the preceding owner.

(t) *Person.* Any individual, family, partnership, corporation or association.

(u) *Personal property (tangible personal property).*

(1) Tangible property which is situated on the real property vacated or to be vacated by a displaced person and which is considered to be both personal property and noncompensable (other than for moving expenses) under the State law of eminent domain, and

(2) In the case of a tenant, fixtures and equipment which the tenant may lawfully, and which the tenant elects to, remove and for which the tenant is not compensated in the real property acquisition. In the case of an owner of real property, the determination as to whether an item of property is personal or real shall take due consideration of how it is identified in the acquisition appraisals and the closing or settlement statement with respect to the real property acquisitions.

(v) *Purchase of a replacement dwelling.* Purchase of a replacement dwelling shall mean (1) acquisition of an existing dwelling, (2) acquisition and rehabilitation of a substandard dwelling, (3) relocation, or relocation and rehabilitation of an existing dwelling (4) construction of a new dwelling, (5) contract to purchase a dwelling to be constructed on a site provided by a builder or developer, or (6) contract for the construction of a dwelling on a site which the displaced person owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the displacing agency may establish the date of occupancy as the date that the displaced person enters into a contract either for such construction or rehabilitation, or for the purchase upon completion of a dwelling to be constructed or rehabilitated on a site provided by a builder or developer;

provided, the displacing agency determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed. Payment by the displacing agency will not be made until the displaced person has occupied the replacement dwelling.

(w) *Rental rate.* The amount paid or determined to be appropriate for the bare premises exclusive of such items as utilities and other services.

(x) *Replacement dwelling.* A replacement dwelling is one which is at least decent, safe, and sanitary.

(y) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Commonwealth of the Marianas, and any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(z) *State agency.* Any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States, or of two or more political subdivisions of a State or States.

(aa) *Tenant.* A person who leases, rents, lawfully occupies or temporarily possesses real property, or a mobile home classified as personal property, of another by any kind of right.

§ 1940.860 FmHA financially assisted projects.

(a) *Assurances by a State agency.*

(1) FmHA shall not approve a loan or grant to, or enter into a contract or an agreement with a State agency unless satisfactory assurances are secured from such State agency that:

(i) Relocation payments, relocation assistance, and relocation assistance advisory services will be provided and comparable replacement dwellings will be available, all as provided in this Subpart;

(ii) In acquiring real property, it will comply with the land acquisition policies provided in § 1940.866 (a) through (i) if compliance is legally possible under State law, and in any event will reimburse owners for necessary expenses as specified in § 1940.866 (f)(3) and (g); and

(2) If a State agency maintains that it is legally unable to comply with the real property acquisition policies in § 1940.866 (a) through (f)(2), and (h) through (i), its statement to that effect shall be supported by an opinion of the chief legal officer of the State containing a full discussion of the facts and law involved. The approval official may accept this statement or the assurances so qualified as constituting compliance with this paragraph.

(3) A loan or grant to, or contract or agreement with, a State agency, shall contain provisions requiring the State agency to comply with these regulations to the extent determined under this paragraph.

(b) *Execution and amendment of agreements.* Any loan or grant to, or contract or agreement with a State agency under which FmHA financial assistance is made available to pay all or part of the cost of any program or project which will result in the displacement of any person shall include, or be amended to include, the cost of providing the payments and services set forth in this Subpart.

(c) *Project cost.* The cost to a State agency of providing payments and assistance pursuant to this Subpart shall be included as part of the cost of a program or project for which FmHA furnishes financial assistance. The State agency will be eligible for FmHA financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(d) *Exception.* No payment or assistance under this Subpart will be required of a State agency, or included as a program or project cost, if the displaced person receives a payment required by the State law of eminent domain which is determined by the approval official to have substantially the same purpose and effect as the payment and assistance required by this Subpart.

(e) *Housing standards.* The displacing agency will determine whether the replacement dwelling meets the standards prescribed under this Subpart.

(f) *Organization and facilities.* It will be the responsibility of the approval official to determine that the displacing agency provides adequate personnel and facilities to enable it to provide the payments and services required by this Subpart.

(g) *Compliance.* The approval official will provide for the making of periodic inspections to ascertain whether payments and services are being provided and whether there is compliance otherwise with the assurances furnished.

(h) *Records.* The loan or grant to, or contract or agreement with, the State agency shall provide that the displacing agency will maintain such records as may be specified by the approval official for a period of 3 years and make them available to the approval official for inspection and audit at reasonable times.

(i) *Performance by contract.*

(1) The displacing agency may contract for the services specified in §1940.879(b) with any person or organization if it finds that such contract will prevent unnecessary expense or avoid duplication of functions.

(2) The solicitation of proposals, contract provisions, and administration shall be in accordance with State laws and with procedures prescribed by the approval official but shall as a minimum include provisions:

(i) Required by Federal regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 82–352), and

(ii) Requiring records relating to the contract to be maintained for a period of not less than 3 years and be available for inspection by representatives of the State agency and FmHA.

(iii) In furnishing housing to the extent authorized under criteria and procedures set forth in paragraph 1940.852 (d), the displacing agency shall, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration and conduct of similar housing assistance activities.

(j) *Furnishing real property.* Whenever real property is acquired by a State agency and furnished as a required contribution to an FmHA financially assisted project, the approval official may not accept such property unless such State agency has made all payments and provided all assistance and assurances as are required of a State agency by these regulations. The cost of such requirements will be paid by the State agency.

(k) *State agency acting as agent for Federal project.* Whenever real property is acquired by a State agency at the request of the approval official for a Federal project, such acquisition shall be deemed for the purposes of these regulations as an acquisition by the approval official.

§ 1940.861–1940.865 [Reserved]

§ 1940.866 Real property acquisition.

(a) *General.*

(1) The provisions of this section are applicable to State agencies carrying out FmHA financially assisted projects regardless of whether any person may be displaced as a result thereof, where compliance is legally possible under State law, and in any event, State agencies will reimburse owners for necessary expenses as specified in paragraphs (f)(3) and (g) of this section.

(2) The provisions of this section do not apply to donations of land, or interests in land, or to land exchanges.

(b) *Acquisition by agreement.* Every reasonable effort will be made to (1) acquire real property by agreements with owners based on negotiations, (2) assure consistent treatment for owners, and (3) accomplish negotiations expeditiously. In no event shall negotiations be deferred nor any other action coercive in nature be taken in order to compel an agreement.

(c) *Appraisal.*

(1) Prior to initiation of negotiations, an appraisal of the fair market value of the real property interest to be acquired will be made by a qualified land appraiser.

(2) The owner or a designated representative will be given a reasonable opportunity to accompany the appraiser during the inspection of the property.

(3) Any decrease or increase in the fair market value of the property prior to the date of the appraisal which is caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(4) Where appropriate, the estimate of the fair market value of the property to be acquired and the estimate of damages or offsetting benefits to the remaining property will be separately stated.

(5) Appraisers shall not give consideration to, or include in, their real property appraisals any allowances for the relocation benefits provided by this Subpart.

(6) Standards for appraisals used in such programs shall be consistent with the Uniform Appraisal Standards for Federal Acquisitions published by the Interagency Land Acquisition Conference, U.S. Government Printing Office, Washington, DC.

(d) *Establishing just compensation.*

(1) Prior to negotiations the displacing agency shall establish an amount it believes to be just compensation which, in no event, shall be less than the amount in the appraisal approved by the displacing agency.

(2) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the displacing agency shall offer to acquire the entire property.

(e) *Initiation of negotiations.*

(1) When the just compensation has been established, a prompt offer will be made to acquire the real property for the full amount of the just compensation so established.

(2) When the offer is made, the owner of the real property will be provided with a written statement of:

(i) Identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements considered to be a part of the real property;

(ii) The amount of the estimated just compensation as determined by the displacing agency and a summary statement of the basis therefore; and

(iii) If only a portion of the property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and damages and benefits to the remaining real property, if any.

(3) The offer of just compensation does not preclude further negotiations with respect to the purchase price.

(4) Tenants occupying the property to be acquired shall be given a displacement notice not later than the date negotiations for the property are initiated with the owner.

(5) Contracts or options to purchase real property shall not provide for any payments for relocation costs or reference to such payments.

(f) *Condemnation.*

(1) The time of condemnation will neither be advanced, nor negotiations, condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature be taken, in order to compel an agreement on price.

(2) If the real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will be taken intentionally which will make it necessary for an owner to institute legal proceedings to prove the taking of the owner's real property.

(3) If the final judgment of the court in a condemnation case is that the displacing agency cannot acquire the real property by condemnation, or if the proceeding in condemnation is abandoned by the displacing agency, the displacing agency must pay the owner of the property such sum as will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. If this cost is not covered by a court order, nevertheless the displacing agency shall pay such costs to the owner.

(4) When the declaration of taking is filed in a Federal condemnation proceeding, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to other payments provided for by this subpart.

(g) *Expenses incidental to transfer of title.* As soon as practicable after the date of payment of the puchase price or the date of deposit in court of funds to satisfy the award in a condemnation proceeding to acquire real property, the owner will be reimbursed to the extent the head of the displacing agency determines fair and reasonable, for expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the displacing agency,

(2) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property, and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the displacing agency, or the effective date of possession of such real property by the displacing agency,, whichever is earlier.

(h) *Buildings, structures and improvements.*

(1) Whenever any interest in real property is acquired, the displacing agency shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property which such displacing agency requires to be removed from the real property, or which the displacing agency determines will be adversely affected by the use to which such real property will be put.

(2) Payments under paragraph (h) of this section will not be made unless the owner of the land involved disclaims all interest in such buildings, structures, or other improvements of the tenant.

(3) The following will apply in determining the just compensation for any such buildings, structures, or other improvements:

(i) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of the term, and

(ii) The fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant therefore, provided the tenant shall assign, transfer and release to the acquiring agency all rights, title

and interest in, and to, such improvements.

(4) Payments under paragraph (h) of this section will not be made which result in duplication of any payments otherwise authorized by law.

(5) A tenant may reject payment and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

(i) *Lease to former owner or occupant.* If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the displacing agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short term occupier.

§§ 1940.867–1940.869 [Reserved]

§ 1940.870 Moving and related expenses.

(a) *Recipient eligibility.* A displaced person, business, or farm operation is eligible to receive payments for actual moving and related expenses described in paragraph (c) of this section, or a fixed relocation payment described in paragraph (d) of this section.

(b) *Extent of eligibility.*

(1) Each owner-occupant, tenant-occupant, family, who is displaced from a dwelling may elect to receive either the payment described in paragraph (c)(1) of this section, or fixed payment described in paragraph (d)(1) of this section, except:

(i) Two or more persons, not a family, living together in a single family unit who are displaced from the unit will be regarded as one displaced person insofar as their eligibility for receiving the fixed payment for moving expenses described in paragraph (d)(1) of this section. Each individual in such group is eligible to receive actual moving and related expenses described in paragraph (c)(1) of this section if the group does not elect to receive the fixed payment.

(ii) No member of a displaced person's family living in the same single unit is eligible for seperate payment for moving expenses.

(2) Any displaced business or farm operation may elect to receive either the payment described in paragraph (c) or (d) of this section.

(3) Any displaced owner-occupant of a multifamily dwelling who earns income from such dwelling and qualifies as a business, is eligible for payments for actual moving and related expenses described in paragraph (c) of this section, for both dwelling and business, or may elect to receive the fixed payments described in paragraph (d) of this section, for both dwelling and business, or may elect to receive payment for the dwelling under one alternative and payment for the business under the other alternate.

(4) A person who lives on a business or farm property and is displaced from both the dwelling and business or farm property is eligible for payments for actual moving and related expenses described in paragraph (c) of this section for both dwelling and business or farm operation, or may elect to receive the fixed payment described in paragraph (d) of this section for both dwelling and business, or farm operation, or may elect to receive payment for the dwelling under one alternate and payment for business or farm operation under the other alternate.

(5) a person displaced from a business or farm operation which causes such person to move from other real property used for the dwelling may elect to receive either the actual expenses payment described in paragraph (c)(1) of this section or the fixed payment described in paragraph (d)(1) of this section. If the displacement causes such person to move other personal property associated with the displaced business or farm operation from real property not acquired, the person is eligible for the moving cost of such personal property as a part of the cost of moving the displaced business or farm operation.

(6) Outdoor advertising signs as defined in § 1940.859(d)(1)(iv) when not part of a displaced business are only eligible for actual expense payments described in paragraph (c) of this section.

(c) *Actual expenses payment.*

(1) A displaced person, business, or farm operation is eligible for actual reasonable expenses specified in paragraph (e) of this section for moving themselves, their family, business, farm operation, or other personal property.

(2) A displaced person, business, or farm operation is eligible for actual direct losses, specified in paragraph (f) of this section, of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount determined by the displacing agency to be equal to the reasonable expenses that would have been required to relocate such property.

(3) A displaced person, business, or farm operation is eligible for actual reasonable expenses, specified in paragraph (g) of this section, in searching for a replacement site for the business or farm operation.

(d) *Fixed payment.*

(1) A displaced person who must vacate a dwelling may elect to receive in lieu of reimbursement for actual expenses described in paragraph (c)(1) of this section, a moving expense allowance not to exceed $300 based on schedules for the area in which the displacement occurs maintained by the State highway departments and approved by the Federal Highway Administration, plus a dislocation payment of $200.

(2) A person who is displaced from a place of business, whether discontinuing or reestablishing the business, may elect to receive, in lieu of reimbursement for actual expenses specified in paragraph (c) of this section, a fixed relocation payment equal to the average annual net earnings of the business as determined in accordance with paragraph (h) of this section, provided:

(i) The business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business; and

(ii) The business cannot be relocated without a substantial loss of its existing patronage. The displacing agency will consider all pertinent circumstances in determining whether the business meets this requirement, including the type of business, the nature of the clientele, the relative importance of the present and proposed locations to the displaced business, and the availability of a suitable replacement location for the displaced person.

(3) A person who is displaced from a farm operation, whether such operation is discontinued or reestablished, may elect to receive, in lieu of reimbursement for actual expenses specified in paragraph (c) of this section, a fixed relocation payment equal to the average annual net earnings of the farm operation as determined in accordance with paragraph (h) of this section. Where a person is displaced from a part of a farm operation, the fixed payment shall be made if the displacing agency determines that the part taken met the definition of a farm operation prior to the taking, or the taking caused the operator to be displaced from the farm operation on the remaining land, or so changed the nature of the existing farm operation as to constitute a displacement.

(4) A displaced nonprofit organization, whether it discontinues or reestablishes its operation, may elect to receive, in lieu of reimbursement for actual expenses specified in paragraph (c) of this section, a fixed relocation payment equal to the average annual net earnings of the nonprofit organization as determined in accordance with paragraph (h) of this section, if the displacing agency determines that:

(i) The nonprofit organization cannot be relocated without substantial loss of its existing patronage which includes the persons, community, or clientele served or affected by its activities; and

(ii) The nonprofit organization is not a part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

(5) The payment provided in paragraphs (d)(2), (3), and (4) of this section shall be not less than $2,500 nor more than $10,000.

(e) *Actual reasonable expenses in moving.*

(1) Items to be included in determining reasonable expenses are:

(i) Transportation of individual families and personal property from acquired site to the replacement site, not to exceed an airline distance of 50 miles, except where the displacing agency determines that relocation cannot be accomplished within such area.

(ii) Packing, unpacking, crating, and uncrating of personal property.

(iii) Advertising for packing, unpacking, crating, uncrating, and transportation when the displacing agency determines that advertising for any of these services is necessary.

(iv) Storage of personal property for a period generally not to exceed 12 months when determined by the displacing agency to be necessary.

(v) Insurance premiums covering loss and damage of personal property while in transit or approved storage.

(vi) Removal, reinstallation, and reestablishment, including such modification as deemed necessary by the displacing agency, of machinery, equipment, appliances, and other items not acquired as real property, and reconnection of utilities for such items. Prior to payment for any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and the displacing agency is released from any payment for the property.

(vii) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, agents, or employees) in the process of moving, where insurance to cover such loss or damage is not obtainable.

(viii) such other reasonable expenses determined to be allowable by the approval official.

(2) Items excluded in determining reasonable expenses are:

(i) Additional expenses incurred because of living in a new location.

(ii) Cost of moving structures and other improvements classed as real property in which the displaced person reserved ownership, except as otherwise provided by law.

(iii) Improvements to the replacement site except when required by law.

(iv) Interest on loans to cover moving expenses.

(v) Loss of goodwill.

(vi) Loss of profits or income.

(vii) Loss of trained employees.

(viii) Personal injury.

(ix) Cost of preparing the application for moving and related expenses.

(x) Payment for search cost in connection with location of replacement dwelling.

(xi) Any loss caused by the negligence or willful act of either the displaced person or the displaced person's agents or employees.

(3) *Limitations:*

(i) If the displaced person, the family, business, farm operation, or other personal property are moved by other than commercial means, the reimbursement allowance will not exceed the estimated cost of moving commerically based on the prevailing local rates for moving, unless the approval official determines that a greater amount is justified.

(ii) If an item of personal property used in connection with a business or farm operation is not moved, but sold and replaced at the new location with a comparable item, reimbursement will not exceed the replacement cost minus the proceeds from the sale, or the estimated cost of moving, whichever is less.

(iii) If personal property used in connection with a displaced business or farm operation is of low value and high bulk, and the cost of removing, reinstalling, and reestablishing such property would be, in the judgment of the displacing agency, disproportionate in relation to its value, the allowable reimbursement for the expense of moving the personal property will not exceed the difference between the amount that would have been received for such item on liquidation and the cost of replacing the same at the new location with a comparable item available on the market.

(f) *Actual direct losses—business or farm operations.*

(1) Subject to the conditions set out in paragraph (f) (2) of this section, payments for actual direct losses of tangible personal property are allowable where a person displaced from a place of business or farm operation does not move tangible personal property. These property losses may include such items as equipment, machinery, or fixtures which are no longer required, where the business or farm operation is to be discontinued or the property is not suitable for use at the new location.

(2) If the displaced person does not move personal property, and if a bona fide effort is made to sell it, reimbursement for the reasonable costs incurred in the efforts to sell the property will be considered, provided that the amount allowed for this purpose shall not exceed the difference between the cumulative amount allowed under the following items and the estimated cost of moving such items not to exceed an airline distance of 50 miles.

(i) If the business or farm operation is discontinued, the actual direct loss is the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, but not to exceed the estimated cost of moving an airline distance of 50 miles.

(ii) If personal property is abandoned, the acutal direct loss is the lesser of the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving to the new location, not to exceed a distance of 50 airline miles.

(3) The cost to the displacing agency of removing abandoned personal property shall not be offset against other payments to the displaced person.

(g) *Actual reasonable expenses in searching for business and farm operations.* A displaced person whose business or farm is acquired may be reimbursed for the actual reasonable expense of searching for a replacement business or farm location. The maximum amount allowable for searching expense is $500 for each displaced business or farm unless the approval official determines that a greater amount is justified based on the circumstances involved. Payment for these expenses are further limited to:

(1) Travel.

(i) Actual cost of common carrier, or

(ii) Eleven cents per mile for use of privately owned vehicle.

(2) Meals and lodging.

(i) Three dollars per meal but not to exceed $9 per day per individual.

(ii) Actual cost of lodging, but not to exceed $20 per day per individual.

(3) Time. Time spent in searching at a flat rate of $3 per hour, or at the rate of the displaced person's salary or earning, but not to exceed $10 per hour. The maximum time allowed shall be 8 hours a day.

(4) Real estate broker. Broker or realtor fees to locate a replacement site for a displaced business or farm operation only when the displacing agency determines in advance that it is necessary.

(h) *Determination of average annual net earnings.* The average annual net earnings will be one-half of any net earnings of the business or farm operation, before Federal, State, and local income tax for the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, and includes any compensation paid by the business or farm operation to the owner, a spouse, or any dependents during such period. Another period may be approved by the approval official if the business or farm operation was not in operation for the full 2-year period or if an unusually long time lag between announcement of a project and the displacement results in a material reduction in the earnings of the business or farm operations for such 2-year period, or under conditions clearly warranting a different period. The business or farm operation will be required to furnish pertinent portions of returns filed with the Internal Revenue Service for the applicable period, or other acceptable evidence of earnings if not required to file returns.

(i) *Mobile home.*

(1) When a mobile home used as a dwelling is deemed personal property and is moved from the acquired site, the displaced person, in requesting parment for the cost of moving the mobile home, may elect to receive either a fixed payment under the provisions of paragraph (d) (1) of this section or the following actual reasonable costs as determined by the displacing agency.

(i) Moving the mobile home to a replacement site but not to exceed the cost of moving to a site 50 airline miles from the acquired site.

(ii) Detaching and reattaching fixtures and appurtenances, where applicable.

(2) If a mobile home is not used as a dwelling, only the actual reasonable costs as determined by the displacing agency and detailed in paragraphs (i) (1) (i) and (ii) of this section may be claimed.

§ 1940.871 [Reserved]

§ 1940.872 Replacement housing—general.

(a) *Certificate of eligibility. Whenever a displaced person is eligible for a replacement housing payment but that person has not purchased a replacement dwelling, the displacing agency shall, at the request of the displaced person, provide a written statement to any interested person, financial institution or lending agency as to:*

(1) The eligibility of the displaced person for a payment.

(2) The requirements that must be satisfied before such payment can be made.

(3) The amount of the payment to be made by the displacing agency, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available, and the displacing agency has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

(b) *Determining purchase price or rental rate.* The displacing agency may determine the amount necessary to purchase or rent, as appropriate, a comparable replacement dwelling by:

(1) A schedule method in which the displacing agency establishes a schedule of reasonable acquisition costs or rental rates of comparable replacement dwellings. The schedule should be based on current analysis of the market; or by

(2) The comparative method in which the displacing agency determines the reasonable acquisition cost or rental rate by selecting one or more comparable replacement dwellings that are most representative of the dwelling acquired. A single dwelling shall be used only when additional comparable replacement dwellings are not available.

(3) When neither the schedule method nor the comparative method is feasible, the approval official may develop other methods for computing replacement housing payments, or approve in advance other methods proposed by the displacing agency.

(c) *Other.*

(1) Payment for replacement housing to a displaced owner-occupant who moves from a one-family unit of a multi-family building owned by such person will be based on the cost of a comparable one-family unit in a multifamily building or if not available, a single-family structure, without regard to the number of units in the acquired multifamily building.

(2) Payment for replacement housing will not affect the eligibility of the displaced person to receive a payment for business earnings attributable to rental units or other legitimate business activities conducted in portions of the building.

(3) Two or more individuals, living together in a single-family dwelling, displaced from the dwelling will be regarded as one displaced person for the purpose of replacement housing.

(4) Relocation payments may be made to displaced persons who select replacement housing in an identified special flood hazard area only if the requirements of Executive Order 11988 and Part 1806 Subpart B of this Chapter are followed.

§ 1940.873 Replacement housing for homeowners (over 180 days) displaced from conventional dwellings.

(a) *Eligibility.* This paragraph is applicable to a displaced person who:

(1) Actually owned and occupied the acquired dwelling for not less than 180 days immediately prior to initiation of negotiations for the property, and

(2) Purchases and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which the person receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or on the date on which the person moves from the acquired dwelling, whichever is the later date.

(b) *Maximum payment.* The maximum payment which may be made by the displacing agency under this section is $15,000.

(c) *Costs eligible for payment by displacing agency.* Costs eligible for payment by the displacing agency under this paragraph are:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(i) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the reasonable cost determined by the displacing agency for a comparable replacement dwelling, the displacing agency shall pay not more under this item than the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the acquisition price of the acquired dwelling, no payment is allowable under paragraph (c)(1) of this section.

(2) The amount, if any, which will compensate the displaced person for any increased interest cost and points which such person is required to pay for financing the acquisition of the replacement dwelling, provided that the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. This amount shall be computed on the basis of and limited to:

(i) The amount of the unpaid debt at the time of acquisition of the real property;

(ii) The length of the remaining term of the mortgage at the time of acquisition;

(iii) The prevailing interest rate and points currently charged by mortgage lending institutions in the vicinity; and

(iv) The present worth of the future payments of increased interest, computed at the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) Reasonable expenses incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses:

(i) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(ii) Lenders, Federal Housing Administration (FHA), or Veterans Administration (VA) appraisal fee.

(iii) FHA or VA application fee.

(iv) Certification of structural soundness when required by lender, FHA, VA or FmHA.

(v) Credit report.

(vi) Title policy, certificate of title,or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps, or sale or transfer taxes.

(ix) Premiums for the initial flood insurance policy shall not be considered as an eligible expense for a relocation assistance payment.

(d) *Advance payments in condemnation cases.*

(1) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The displacing agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, provided the homeowner enters into an agreement with the agency that:

(i) Upon final determination of condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(ii) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, the property owner will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall the property owner be required to refund more than the amount of the replacement housing payment advanced.

(2) If the property owner does not agree to such adjustment, the replacement housing payment will be deferred until the case is finally adjudicated and computed on the basis of the final determination using the award as the acquisition price.

§ 1940.874 Replacement housing for tenants and certain others (over 90 days) displaced from conventional dwellings.

(a) *Eligibility.*

(1) This paragraph is applicable to a displaced person who:

(i) Is a tenant, or

(ii) Is an owner-occupant who elects to lease or rent rather than purchase a replacement dwelling, or

(iii) Is an owner-occupant who elects to purchase a replacement dwelling but occupied the acquired dwelling for less than 180 days required by § 1940.873 (a)(1).

(2) A displaced person is eligible for a replacement housing payment under this paragraph if the displaced person:

(i) Actually and lawfully occupied the acquired dwelling for not later than 90 days immediately prior to the initiation of negotiations for acquisition of the property.

(ii) Purchases or rents and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which the displaced person, if

(A) A tenant, moves from the acquired dwelling.

(B) An owner-occupant, receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or the date on which the displaced person moves from the acquired dwelling, whichever is the later date.

(b) *Maximum payment.* The maximum payment which may be made by the displacing agency under this section is $4,000. When the payment is made in connection with the purchase of a replacement dwelling the amount of the payment by the displacing agency in excess of $2,000 must be matched by the displaced person.

(c) *Rental payments.* Computing rental payments for displaced tenants renting replacement housing.

(1) The displacing agency shall compute the amount of the payment to the tenant as follows:

(i) Multiply the monthly rental rate of the replacement dwelling or a comparable replacement dwelling, whichever is the lesser rate, by 48.

(ii) Determine the average monthly rental rate paid by the displaced tenant for the acquired dwelling in the last 3 months prior to initiation of negotiations, provided such rent was reasonable. If such average rent paid was not reasonable, the displacing agency may use an economic rent amount for the acquired dwelling. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(iii) Multiply the average monthly rental rate for the acquired dwelling as determined in paragraph (c)(1)(ii) of this section, by 48.

(iv) Subtract from the amount determined in paragraph (c)(1)(i) of this section, the amount determined in paragraph (c)(1)(iii) of this section.

(2) If the displaced tenant is paying rent for the acquired dwelling to the displacing agency, economic rent shall be used in making the determination required by paragraph (c)(1)(ii) of this section.

(d) *Computing rental payments for displaced owner-occupants renting replacement housing.* The displacing agency shall compute the amount of the rental payment to the displaced owner-occupant in the same manner as prescribed in paragraph (c) of this section except that economic rent shall be used in making the determination required by paragraph (c)(1)(ii) of this section.

(e) *Making payment to a displaced person who rents replacement housing.*

(1) The rental payment to be made shall be paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(2) Installment payments, not to exceed four equal annual installments, will be made if so requested provided the displacing agency determines the displaced person is continuing to occupy decent, safe, and sanitary housing at the beginning of each annual period.

(f) *Purchase of replacement dwelling.*

(1) The amount of the payment shall be computed by determining the amount necessary to enable the displaced person to make a down payment and to cover incidental expenses on the purchase of the replacement housing.

(i) The amount of the down payment shall be the lesser of:

(A) The amount that would be required as a down payment for

financing a conventional loan on a comparable dwelling; or

(B) The amount required as a downpayment for financing a conventional loan on the replacement dwelling actually purchased.

(ii) Reasonable expenses incurred by the displaced person may be paid for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses:

(A) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(B) Lenders, FHA, or VA appraisal fee.

(C) FHA or VA application fee.

(D) Certification of structural soundness when required by lender, FHA, VA, or FmHA.

(E) Credit report.

(F) Title policy, certificate of title, or abstract of title.

(G) Escrow agent's fee.

(H) State revenue stamps, or sale or transfer taxes.

(I) An amount required to be paid by the purchaser as points and/or origination or loan service fees, if such fees are normal to real estate transactions in the area, on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) The full amount of the payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 1940.875 Replacement housing for mobile home occupants.

(a) *Eligibility.*

(1) The occupant of a mobile home located on an acquired site is eligible for a replacement housing differential payment to the extent stated in paragraph (b) of this section if the occupant meets the following requirements:

(i) The mobile home is acquired by the displacing agency, or the site of the mobile home is acquired which results in the mobile home being removed.

(ii) The person actually occupied the mobile home on the acquired site for not less than 90 days immediately prior to initiation of negotiations or date of receipt of displacement notice, whichever is later.

(iii) The person vacated the mobile home or mobile homesite as a result of the acquisition of the property or receipt of a notice to vacate.

(b) *Extent of eligibility.*

(1) A person displaced from a mobile home who is eligible for replacement housing payments may elect a mobile home or a conventional dwelling to serve as a replacement dwelling.

(i) Such displaced occupant of a mobile home will be eligible for replacement housing benefits to the same extent and subject to the same conditions as provided in § 1940.873 or § 1940.874 depending on the period of occupancy of the mobile home on the acquired site and degree of interest held in the acquired mobile home.

(A) Period of occupancy shall be determined on the basis of the date initiation of negotiations or the date of receipt of a displacement notice, whichever is later.

(B) Degree of interest, i.e., owner or tenant, will be that of the displaced occupant in the mobile home, exclusive of the interest held in the homesite.

(ii) When either type of replacement dwelling is elected, the maximum allowable under §§ 1940.873 (c) (1) or 1940.874 (c) shall be computed on the basis of the lesser of:

(A) The amount the displaced person pays for a replacement dwelling; or

(B) The amount determined by the displacing agency as necessary to provide a comparable replacement mobile home.

(2) The occupant of a mobile home not acquired but moved from the acquired homesite is eligible for a replacement homesite.

(i) Such occupant will be eligible for replacement homesite benefits to the same extent and subject to the same conditions as provided in § 1940.873 or § 1940.874 depending on the period of occupancy of the mobile home on the acquired site and the degree of interest held in the acquired homesite.

(A) Period of occupancy shall be determined on the basis of the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is later.

(B) Degree of interest, i.e., owner or tenant, will be that of the occupant in the homesite, exclusive of the interest held in the mobile home.

(ii) When either type of replacement dwelling is elected, the maximum allowable under §§ 1940.873 (c) (1) or 1940.874 (c) shall be computed on the basis of the lesser of:

(A) The amount the occupant of the mobile home pays for a replacement homesite; or

(B) The amount determined by the agency as necessary to provide a comparable replacement homesite.

§§ 1940.876–1940.878 [Reserved]

§ 1940.879 Relocation assistance advisory services.

(a) *Policy.* Whenever the acquisition of real property for a FmHA financially assisted program or project as described in § 1940.853 will result in the displacement of any person, the displacing agency shall provide a relocation assistance advisory program for displaced persons. If such agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, that agency shall offer such person relocation assistance advisory services.

(b) *Advisory services.* Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(1) Determine the need, if any, of displaced persons for relocation assistance.

(2) Provide current and continuing information on the availability, prices and rentals of comparable sale and rental replacement housing, and of comparable commercial properties and locations for displaced businesses and farm operations.

(3) Assure that, within a reasonable period of time prior to displacement, comparable replacement dwellings will be available for those to be displaced from dwellings.

(4) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location.

(5) Supply information concerning housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons.

(6) Provide other advisory services to displaced persons in order to minimize hardship to such persons in adjusting to relocation.

(7) Advise displaced persons that they should notify the displacing agency before the move; and

(8) Inform affected persons of the benefits to which they may be entitled under the Act and this Subpart.

(c) *Contracting for advisory services.* The displacing agency may, by contract or otherwise, secure relocation assistance advisory services from any Federal, State, or local governmental agency or from any person or organization providing such service.

§§ 1940.880–1940.900 [Reserved]

This document has been reviewed in accordance with Part 1901, Subpart G, "Environmental Impact Statements" of this chapter. It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance

with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

(42 U.S.C. 4633, 42 U.S.C. 1480; 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: September 26, 1980.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 80-32401 Filed 10-16-80; 8:45 am]

BILLING CODE 3410-07-M

EXPORT-IMPORT BANK

12 CFR Part 400

Post Employment Conflicts of Interest

AGENCY: Export-Import Bank of the United States.

ACTION: Proposed regulations.

SUMMARY: Export-Import Bank of the United States (the "Bank") is revising its regulations dealing with conflicts of interest of former employees to make such regulations consistent with the restrictions on post employment activity established by Title V of the Ethics in Government Act of 1978, as amended, and regulations issued by the Office of Personnel Management 5 CFR Part 737. The proposed regulations will provide guidelines for enforcement of such restrictions by the Bank.

DATE: Comments must be received on or before December 16, 1980.

ADDRESS: Comments, views and opinions concerning the proposed regulations may be submitted to: Office of the General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick, General Counsel, (202) 566–8334 at the above address.

SUPPLEMENTARY INFORMATION: In view of the enactment of the Ethics in Government Act of 1978, and its subsequent amendments, a number of significant changes and additions were made to pre-existing legislation on post employment conflicts of interest affecting employees of the United States government, including Bank employees. Pursuant to the Act, the Office of Government Ethics in the Office of Personnel Management has issued regulations on the subject. Accordingly, it has been necessary to revise and restate Eximbank regulations on Standards of Conduct relating to post employment conflicts of interest by adding this new Subpart G to Part 400 which appears in Chapter IV of Title 12 of the Code of Federal Regulations.

1(a). Accordingly the Bank proposes to amend Chapter IV of Title 12 by deleting § 400.735–9 *Former Employees* and adding a new Subpart G *Regulations Concerning Post Employment Conflicts of Interest*, as follows:

PART 400—STANDARDS OF CONDUCT

* * * * *

Subpart G—Regulations Concerning Postemployment Conflicts of Interest

Sec.

400.735–70 General nature of restrictions.
400.735–71 Permanent restriction on any former Bank Employee's acting as respresentative as to a particular matter in which the employee personally and substantially participated.
400.735–72 Two-year restriction on any former Bank Employee's acting as representative as to a particular matter for which the employee had official responsibility.
400.735–73 Two-year restriction on a former Senior Employee's assisting in representing as to a matter in which the employee participated personally and substantially.
400.735–74 One-year restriction on a former Senior Employee's transactions with the Bank on a particular matter regardless of prior involvement.
400.735–75 Administrative enforcement proceedings.
400.735–76 Effective date of restrictions.

Authority: 18 U.S.C. 207; 5 CFR 737.

Subpart G—Regulations Concerning Postemployment Conflicts of Interest

§ 400.735–70 General nature of restrictions.

(a) *Authority.* Title IV of the Ethics in Government Act of 1978, as amended ("the Act") established the Office of Government Ethics ("OGE") within the Office of Personnel Management ("OPM") and, pursuant to the Act, the OPM has on the recommendation of the Director of the OGE in consultation with the Attorney General issued regulations in 5 CFR 737 giving content to the restrictions on post employment activity established by Title V of the Act (18 U.S.C. 207) for administrative enforcement with respect to former officers and employees of the executive branch; generally to guide agencies in exercising the administrative enforcement authority reflected in Section 18 U.S.C. 207(j); to set forth the procedures to be employed in making certain determinations and designations pursuant to the Act; and to provide guidance to individuals who must conform to the law. Criminal enforcement of the provisions of 18 U.S.C. 207 remains the exclusive responsibility of the Attorney General.

(b) *Purpose.* It is the purpose of these regulations to provide guidelines for Bank employees within the framework of the Act and the OPM regulation to which reference should be made for detailed statements of the law, definitions, exemptions, limitations and illustrative examples.

(c) *Policy and limitations.* The restrictions set forth bar certain acts by former Bank employees which may reasonably give the appearance of making unfair use of prior Bank employment and affiliations. They do not, however, bar any former Bank employee, regardless of rank, from employment with any private or public employer after Bank employ. Nor do they bar employment even on a particular matter to which the former Bank employee had major official involvement, except in certain circumstances involving persons engaged in professional advocacy. In general, the specific prohibitions arise from a combination of factors which in any given situation may include the following: (1) the nature and extent of the involvement in a particular matter by the employee while in Bank employ, (2) the identity of the particular matter with which the employee dealt while in Bank employ with the same matter with respect to which the employee represents others after leaving Bank employ, (3) the manner in which the former Bank employee appears before or communicates with the U.S. Government, (4) the position occupied by the former employee while in Bank employ, (5) the time limits applicable to the periods before and after the employee leaves his or her position or activity in the Bank to which the restriction applies.

§ 400.735–71. Permanent restriction on any former Bank Employee's acting as representative as to a particular matter in which the employee personally and substantially participated.

(a) *Basic prohibition of 18 U.S.C. 207(a).* No former Bank employee after terminating employment with the Bank shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Bank matter involving a specific party, (3) in which such employee participated personally and substantially as an employee of the Bank.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) since the prohibition has no time limit, it provides a permanent bar to the proscribed activity; (2) the former employee is prohibited from acting as agent or attorney for any other person, but not for himself; (3) it prohibits representation by an "appearance," even if only in a technical procedural sense regardless of physical presence; (4) it also prohibits any communication with intent to influence; (5) the prohibition against an appearance or communication extends to other departments, agencies and courts of the United States and is not limited to the agency in which the employee became involved with the particular matter; (6) the representation by the former employee must be in connection with a particular matter involving specific parties; and (7) the particular matter must be one in which the former employee participated personally and substantially while in Bank employ.

§ 400.735–72 Two-year restriction on any former Bank Employee's acting as representative as to a particular matter for which the employee had official responsibility.

(a) *Basic Prohibition of 18 U.S.C. 207(b)(i).* No former Bank employee, within two years after terminating employment by the Bank, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Bank matter involving a specific party, (3) if such matter was actually pending under the employee's responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) Comments (2)–(6) made under paragraph (b) of § 400.735–71 apply equally to this Section; (2) The particular matter must be one which was acually pending under the employee's responsibility as an officer or employee of the Bank; (3) Two time periods limit the applicability of this Section. The particular matter which came under the responsibility of the employee must have been pending within one year prior to the termination of such responsibility. In addition, the prohibition against the employee's representing any other person on such matter lasts for two years after the termination of the employment where such responsibility was held with the Bank; (4) The time periods applicable to the prohibition of this Section are measured from the date when the employee's responsibility in a particular area ends, not from the termination of Bank employ, unless the two occur simultaneously. (See 5 CFR 737.7(e)).

§ 400.735–73 Two-year restriction on a former Senior Employee's assisting in representing as to a matter in which the employee participated personally and substantially.

(a) *Basic prohibition of 18 U.S.C. 207(b)(ii).* No former Senior Employee (defined below), within two years after terminating employment by the Bank, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person by personal presence at any formal or informal appearance (1) before the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter he or she participated personally and substantially as an employee of the Bank.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) Comments (2), (5), (6), and (7) set forth under paragraph (b) of § 400.735–71 are equally applicable to prohibitions of this Section; (2) The statutory two-year period is measured from the date of termination of employment in the Senior Employee position held by the former employee when he or she participated personally and substantially in the particular matter, (See 5 CFR 737.9(e)); (3) This prohibition deals with the same activity of the employee while in Bank employ as does § 400.735–71 i.e. "a particular matter in which the employee participated personally or substantially" but deals with a different aspect of the employee's conduct after leaving Bank employ. Thus, even though the former Senior Employee does not represent another as agent or attorney or communicate with intent to influence, he or she is also prohibited from "aiding, counseling, advising, consulting, or assisting in representing any other person by personal presence at any formal or informal appearance"; (4) The term "Senior Employee" refers to an officer or employee named in, or designated by, the Director of the Office of Government Ethics, pursuant to Section 207(d) of Title 18 U.S.C.

§ 400.735–74 One-year restriction on a former Senior Employee's transactions with the Bank on a particular matter regardless of prior involvement.

(a) *Basic prohibition of 18 U.S.C. 207(c).* For a period of one year after terminating employment by the Bank, no former Senior Employee (other than a special Government employee who serves for fewer than sixty days in a calendar year) shall knowingly act as an agent or attorney for, or otherwise represent, anyone in any formal or informal appearance before, or with intent to influence, make any written or oral communication on behalf of anyone to (1) the Bank or any of its officers or employees, (2) in connection with any particular Bank matter, whether or nor involving a specific party, which is pending before the Bank, or in which it has a direct and substantial interest.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) Comments (3) and (4) set forth under paragraph (b) of Section 400.735–71 apply equally to the prohibitions of this Section; (2) The statutory one-year period is measured from the date when the individual's responsibility as a Senior Employee in the Bank ends, not from the termination of Bank employ, unless the two occur simultaneously (See 5 CFR 737.11(j)); (3) Not only is the Senior Employee prohibited from representing any other person, but is also prevented from representing himself or herself; (4) The prohibited appearance does not extend to other departments, agencies and courts of the United States, but only to appearances before, or communications to, the agency at which he or she was employed on a particular matter pending before such agency or in which such agency has a direct and substantial interest; (5) The prohibited representation must involve a particular matter, but it need not involve specific parties; (6) Unlike other sections of these regulations, the prohibition of this Section applies without regard to whether the former Senior Employee had participated in, or had responsibility for, the particular matter and includes matters which first arise after the employee leaves Bank employ.

§ 400.735–75 Administrative Enforcement Proceedings.

(a) *Information of Violation.* On receipt of information regarding a possible violation of 18 U.S.C. 207 and after determining that such information appears substantiated, the President of the Bank or the Chairman of the Ethics Committee, if so directed by the President, shall expeditiously provide such information along with any comments or Bank regulations to the Director of the OGE and to the Criminal Division, Department of Justice. Any continuing investigation by the Bank on administrative action shall be

coordinated with the Department of Justice to avoid prejudicing criminal proceedings unless the Department of Justice advises the Bank that it does not intend to initate criminal prosecution.

(18 U.S.C. 207, 5 CFR 737.27)

(b) *Initiation of administrative proceedings.* Whenever the Bank has determined after appropriate review that there is reasonable cause to believe that a former Bank employee has violated any of these regulations or 18 U.S.C. 207(a), (b), or (c) or 5 CFR 737, it may initiate an administrative disciplinary proceeding by providing the former Bank employee with notice as defined in paragraph (c) of this Section. Prior to a determination of sufficient cause to initiate an administrative disciplinary hearing, all records under the Bank's control relating to allegations of a violation shall be confidential, subject to applicable law.

(18 U.S.C. 207, 5 CFR 737.27)

(c) *Notice and hearing.* The notice of an administrative disciplinary proceeding and any hearing pursuant to such notice requested by the former Bank employee, shall follow the procedures set forth in 5 CFR 737.27(a)(3), (4), (5), (6), (7), and (8).

(d) *Administrative sanctions.* Actions which may be taken by the Bank in the case of an individual who is found in violation of these regulations or 18 U.S.C. 207(a), (b), or (c) or 5 CFR 737, after a final adminsitrative decision, or who failed to request a hearing after reciving adequate notice, shall include: (f) prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Bank on any matter of business for a period not to exceed five years, which may be accomplished by directing Bank employees to refuse to participate in any such appearance or to accept any such communication; or (2) taking other appropriate disciplinary action.

§ 400.735-76 Effective date of restrictions.

Any person who holds a Bank position after June 30, 1979, becomes subject to any additional restrictions relating to the holder of that position contained in the amendments to 18 U.S.C. 207, as set forth in these regulations. Restrictions, which depend on the designation of a position by the Director of the OGE, shall become applicable on the date such designation becomes effective.

The authority for Part 400 is revised to read as follows:

Authority: E.O. 11222, 30 FR 6469, 3 CFR 1964–65 Comp., P. 306; 5 CFR 735.104, unless otherwise noted.

Warren W. Glick,

General Counsel.

October 8, 1980.

[FR Doc. 80-32374 Filed 10-16-80; 8:45 am]

BILLING CODE 6690-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Miscellaneous Amendments to the Foreign Trade Statistics Regulations

Correction

In FR Doc. 80-30732, appearing at page 65250 in the issue of Thursday, October 2, 1980, the amendment to § 30.53 in the second column on page 65251 should have read, "4. Section 30.53 is hereby amended by deleting § 30.53(e) in its entirety."

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 239

[Release Nos. 33-6245, 34-17197; File No. S7-853]

Proposed Availability of Simplified Registration Form to Certain Mining Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing for comment amendments to Form S-18, a simplified registration form, which would allow certain issuers engaged in the mining business to register their securities on that Form. A new disclosure item which includes requirements applicable to mining companies is proposed for Form S-18 and similar amendments are proposed for Item 2 of Regulation S-K. The latter will be applicable to companies using registration forms other than Form S-18 and to companies subject to the continuous reporting requirements under the Securities Exchange Act of 1934. The Commission is also recommending that Form S-3 be rescinded. That form is currently available to certain start-up or unprofitable companies engaged in the mining business.

DATE: Comments must be received on or before November 21, 1980.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549. Comments should refer to File No. S7-853 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert Rupp, Office of Small Business Policy, Division of Corporation Finance, (202) 272-2644. With respect to proposed Item 7A of Form S-18 and Item 2(c) of Regulation S-K, contact Hubert W. Norman, Office of Engineering, Division of Corporation Finance, (202) 272-3257.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for comment certain amendments to Form S-18 (17 CFR 239.28), and Regulation S-K (17 CFR 229.20) and a proposal to rescind Form S-3 (17 CFR 239.13).

Form S-18 is a simplified registration statement available to certain domestic and Canadian corporate issuers for the registration under the Securities Act of 1933 (15 U.S.C. §§ 77a, et seq., as amended (1976)) of up to $5 million worth of securities to be sold for cash. The Form is not available to issuers that are engaged or intend to engage in significant mining operations. Form S-3 is designed exclusively for start-up and unprofitable mining companies. The Commission is hereby proposing that the availability of Form S-18 be extended to certain mining companies and that existing Form S-3 be rescinded. A new disclosure requirement specifically applicable to mining issuers would be added to Form S-18.

The Commission is also proposing an amendment to Item 2 of Regulation S-K. The item sets forth the type of disclosure to be made in describing an issuer's property. The proposed amendments deal specifically with the type of information to be furnished by mining companies.

Background

The Commission has for some time been examining steps which might be taken to facilitate capital formation by small businesses. The adoption of Form S-18 in April 1979 represented a significant initiative in this regard.[1] As adopted, issuers who engaged or intended to engage in significant mining operations were precluded from the use of the Form. Several commentators and witnesses who appeared at the Commission's Small Business Hearings

[1] Securities Act Release No. 33-6049, April 3, 1979 (44 FR 21562).

opposed this exclusion.[2] However, in view of the experimental nature of the Form and the initiation of regional processing of registration statements, the Commission determined to proceed cautiously in connection with the adoption of Form S–18. The Commission did express its intent to monitor the use of the Form for an appropriate period and to consider whether the conditions as to its availability should be expanded. The Office of Small Business Policy in the Division of Corporation Finance has undertaken an ongoing monitoring program regarding Form S–18. In addition, the Commission's Directorate of Economic and Policy Analysis recently published a study concerning the use of Form S–18 during the first eight months since its adoption.[3]

In view of the relatively widespread acceptance of the Form and the absence to date of any significant disclosure or enforcement problems, the Commission has determined to propose that Form S–18 be made available to certain companies engaged in the mining business. The staff will continue to consider, over the next several months, the advisability of further expanding Form S–18 to make it available to corporate issuers engaged in oil and gas operations and limited partnerships.

The amendments proposed herein provide for a new disclosure item, Item 7A, to be added to Form S–18. This item contains revised disclosure requirements applicable to issuers engaged in the mining business. With respect to those mining companies filing registration statements on Forms other than Form S–18 and those subject to the reporting provisions of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78a, et seq., as amended (1976)] an amendment to Item 2 of Regulation S–K is also proposed.

Item 7A of Form S–18 incorporates the substantive disclosure concepts that are presently set forth in Form S–3. These provisions have been updated to reflect current disclosure practices and certain additional requirements have been included. Item 2(c) of Regulation S–K incorporates the provisions of proposed Item 7A in their entirety. Certain additions which were unnecessary in the Form S–18 context were included in the Regulation S–K amendments.

[2] In Securities Act Release No. 33–5914, March 6, 1978 (43 FR 10876), the Commission announced its intention to hold a series of small business hearings. The full text of the comments offered can be found in Commission File No. S7–734.

[3] Form S–18, A Monitoring Report on its Use in 1979, U.S. Securities and Exchange Commission, Directorate of Economic and Policy Analysis, March 1980.

Discussion

I. Form S–18 and Form S–3

Form S–3 is available to corporate issuers which engage or intend to engage in the mining business. The registration statement can be used only for shares of stock that are to be sold for cash. Issuers must be either start-up corporations or corporations that have not had any significant income during the past five years. If the issuer expects to succeed to any income producing activity the Form will likewise be unavailable to it. At present, any mining issuer that does not meet the above restrictions would be required to register on Form S–1.[4]

As indicated above, the Commission has determined to propose that Form S–18 be made available to companies engaged in the mining business. This change would be accomplished by deleting the existing prohibition against usage of the Form by mining companies from General Instruction A to the Form. The other restrictions present in the Instructions to Form S–18 would remain. Therefore a mining issuer would be required to be a domestic or Canadian corporation which proposes to sell not more than $5 million worth of securities to the public for cash. The mining issuer also may not be a company reporting under the Securities Exchange Act of 1934, a limited partnership or a subsidiary of a parent that would be unable to use the Form.[5]

If adopted, the proposals published today would extend to mining companies the benefits now available to issuers currently able to use Form S–18. The primary distinctions between Forms S–3 and S–18 are as follows. Issuers utilizing Form S–18 have the option to file their registration statements at the Headquarters Office or at an appropriate regional office.[6] All Form S–3's must be filed at the Headquarters Office. Form S–3 requires financial statements for the past three years that are prepared in accordance with Regulation S–X. Form S–18, on the other hand, requires financial statements for two years and they need only be prepared in accordance with Generally Accepted Accounting Principles. Registrants utilizing Form S–3 incur a reporting obligation under Section 15(d) of the Exchange Act immediately after the registration statement is declared effective. Form S–18 registrants incurring a reporting obligation under Section 15(d) are extended a gradual phase-in procedure whereby much of the information required in the initial Exchange Act reports is either carried over from the Form S–18 registration statement or is permitted to comply with Form S–18 requirements. Finally, Form S–3 is available only for equity offerings while Form S–18 may be used for debt as well as equity offerings.

The Commission is also proposing that Form S–3 be rescinded since the revision of Form S–18 will allow its use by certain mining companies. Under the present restrictions with respect to use of Form S–3 and as proposed for Form S–18, it appears that the only issuers that would be able to use Form S–3 but not Form S–18 are a reporting company that has not had any significant income in the past five years or a foreign issuer that has not had significant income in the past five years. One additional limitation, discussed below, is the $5 million ceiling on the amount of securities that may be registered on Form S–18. Form S–3, on the other hand, has no such limitation. The Division of Corporation Finance, Office of Small Business Policy has conducted a review of all Form S–3 filings over the past two years. This survey indicates that the number of companies that would be able to register on Form S–3 but not Form S–18 is extremely small.

With respect to the first category, the Commission believes that the burden of generating the additional information necessary for registration on Form S–1, the currently available alternative form for registration, would not be significant for an issuer that has been reporting under the 1934 Act. With regard to foreign issuers presently able to use Form S–3 but not Form S–18, it was found that only one registration statement filed in the past two years would have fallen within this category.

Based on the Commission's experience with Form S–3, the $5 million Ceiling applicable to Form S–18 also should not impose a hardship on issuers who would have used Form S–3. It was found that only one Form S–3 registration during the past two years exceeded the $5 million amount and that registration related to a $5.7 million offering. As a result, the effect of this limitation is expected to be minimal.

II. Regulation S-K, Item 2

Proposed Item 7A of Form S–18 represents a comprehensive set of disclosure requirements which address issues particularly germane to registrants engaged in the mining business. In order to provide for similar disclosure in other Securities Act

[4] 17 CFR 239.11.

[5] *See* General Instruction A(a).

[6] The study prepared by the Directorate of Economic and Policy Analysis indicated that regional filing was perceived as one of the most important benefits of Form S–18. Form S–18 Monitoring Report, *supra* note 3, at 31.

registrations and in Exchange Act registrations and reports, the Commission is also proposing amendments to Item 2 of Regulation S-K.

Item 2 of Regulation S-K concerns the description of properties held by the issuer. Item 2 includes detailed disclosure requirements for issuers engaged in the oil and gas business but does not include similar requirements for issuers engaged in the mining business. The proposal herein suggests the addition of Item 2(c) which would set forth detailed disclosure requirements for mining issuers.

The entire set of disclosure requirements proposed as Item 7A to Form S–18 have been carried over to proposed Item 2(c) of Regulation S-K. In addition to those provisions, certain areas which are not relevant to Form S–18 have been included in the Regulation S-K item. The first relates to the impact of takeover or nationalization of properties owned by registrants which are located in foreign nations. Form S–18 is available to domestic and Canadian corporations only. Takeover or nationalization by Canadian authorities has not presented a problem in the past and therefore this provision was not deemed necessary for Form S–18.

A series of requirements concerning issuers that have entered into long term supply contracts have been included in the Regulation S-K item but not in the Form S–18 item. The reason is that mining companies that would be able to enter into such contracts would generally be larger, well-established companies with significant reserves. Such issuers probably would not be able to register on Form S–18. It is expected that the vast majority of mining companies that will use the form will be smaller, start-up companies with no significant reserves. Therefore, this requirement was not included in Item 7A to Form S–18.

Synopsis

The following brief synopsis is intended to assist interested parties in their understanding of the proposed amendments. Attention is directed to the attached text for a more complete understanding.

Item 7A. Description of Property—Issuers Engaged or To Be Engaged in Significant Mining Operations

As proposed, new Item 7A would provide for the inclusion in Form S–18 of disclosure requirements specifically applicable to issuers who engage or intend to engage in significant mining operations. The new item will appear immediately following present Item 7, "Description of Property." The item is essentially divided into three subsections. The first includes certain definitions applicable to mining companies; the second includes the applicable disclosure requirements; and the third includes certain supplemental information requirements.

(a) Item 7A(a)—Definitions

A basic definition of the term "reserve" as it relates to mineral deposits has been included in this subsection. The definition incorporates views from the recently published *U.S. Geological Survey Circular 831* [7] and from standard mining dictionaries. Form S–3 does not include a similar explanatory definition.

The definitions of "proven" and "probable" reserves included in this subsection are similar to those included in Form S–3. They have, however, been updated to reflect the substance of the *U.S. Geological Survey Circular 831.*

FASB No. 7 groups together, under the title "Development Stage Enterprises," issuers that are in both the exploratory and development stages. The distinction, from the perspective of the geologist or engineer, is significant. In mining terminology an exploratory stage company is basically engaged in the search for minerals. A development stage company, on the other hand, has found a commercially feasible body of minerals and is engaging in the preparation of that body for production. Financial statements for exploratory stage mining issuers will typically identify the issuer as a "development stage company." Such a classification may be confusing to investors. As a result, proposed Item 7A requires that the definitional terms in Item 7A(a) be utilized in the textual and financial statement disclosure. In this regard, Item 7A(a) includes separate definitions of the "Exploration," "Development" and "Production" stages. In addition, an amendment to Item 15 "Financial Statements and Instructions" has been inserted which cross-references to the Item 7A(a) definitions. The Commission specifically requests comments on the issue of whether such an instruction is necessary or desirable.

(b) Item 7A(b)—Disclosure Requirements

This subsection sets forth the prospectus informational requirements concerning the registrant's mining operations. Items 7A(b)(1)–(6) are similar to the requirements in Form S–3 Items 4(a)(1)–(6). These requirements have been expanded and updated to reflect current disclosure standards. The salient facts regarding the properties owned and operated by the registrant would be disclosed pursuant to these subsections. These disclosures would include the location of and means of access to the property, form of title or lease and any known mineralization on the property. In addition, a description of the history of operations and work done by the registrant will be required. An instruction indicating that the summation of proven (measured) and probable (indicated) reserves will be allowed under certain circumstances also has been inserted. This instruction will be applied where the difference between the issuer's proven (measured) and probable (indicated) reserves cannot reliably be defined. In addition, the Form S–3 prohibition against disclosure of reserves of lesser assurance proven (measured) or probable (indicated) has been retained. Finally, the present state of the property, plants and equipment would be included.

Two new substantive disclosure provisions have been added. Item 7A(b)(7) requires a description of the total tonnage produced, the grade of such ore and relevant production cost statistics. Item 7A(b)(8) would elicit disclosure concerning changes in the deposits mined and changes in the mining conditions experienced by the issuer.

(c) Item 7A(c)—Supplemental Information

Item 7A(c) addresses three separate subject matter areas of supplemental information. The first concerns maps, drill data and calculations upon which the reserve estimates are based. These requirements are similar to those included in Form S–3's "Instructions to Exhibits" section. A series of new instructions have been added which will delineate the proper format for maps submitted to the staff.

The second section, similar to Form S–3, requires that each engineering, geological or metallurgical report concerning the registrant's property be filed supplementally. The proposal modifies the existing Form S–3 requirements by allowing a list of the non-governmental reports to be filed instead of the reports themselves.

The third subsection requires filing of certain documents necessary to support representations made in the registration statement.

[7] Principles of a Resource/Reserve Classification for Minerals, U.S. Bureau of Mines and the U.S. Geological Survey (1980). This survey was intended as a revision of the widely utilized U.S. Geological Survey Bulletin No. 1450–A.

Regulation S-K Item 2(c)

The disclosure requirements discussed above with respect to Form S-18 were carried over in their entirety to proposed Item 2(c) of Regulation S-K. Certain additional disclosure requirements normally not applicable to Form S-18 registrants were added to Item 2(c). These additions are as follows.

Two disclosure provisions concerning the impact of foreign governments have been added. The first would mandate disclosure of the impact on the issuer of takeover or nationalization by a foreign government of the issuer's properties. The second concerns prohibitions against disclosure of estimated reserves by foreign governments or required disclosure of reserves other than proven or probable where the properties are under governmental authority. In these instances, the document should disclose the name of the country, identify the applicable law or regulation and give an appropriate description of the disclosure that is required or prohibited by the foreign government.

Issuers that have entered into contracts for supply of fixed amounts of minerals also will be required to set forth detailed dislosure concerning several aspects of such contracts. These disclosure requirements address matters such as the quantity of minerals to be supplied, the sources of supply, the impact of certain priorities or curtailments which may affect the ability to deliver, and the impact of price limitations imposed by federal or state authorities.

Text of Proposed Amendments

17 CFR Chapter II is proposed to be amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.13 [Deleted]

1. By rescinding § 239.13 in its entirety.

2. By amending § 239.28 to read as follows:

§ 239.28 Form S-18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $5,000,000.

* * * * *

General Instruction

A. Rule as to Use of Form S-18.

* * * * *

(6) (Delete the text of subsection (6) and insert the text of subsection (7).)

(7) (Insert the text of subsection (8).)

(8) (Delete this subsection.)

* * * * *

Item 7. Description of Property

(No change.)

Item 7A. Description of Property—Issuers Engaged or To Be Engaged in Significant Mining Operations

(a) *Definitions.*—The following definitions apply to registrants engaged or to be engaged in significant mining operations:

(1) *Reserve:* That part of a mineral deposit which could be economically and legally extracted or produced at the time of the reserve determination.

Note.—Reserves are customarily stated in terms of "ore" when dealing with metalliferous minerals; when other materials such as coal, oil shale, tar sands, limestone, etc. are involved, an appropriate term such as "recoverable coal" may be substituted.

(2) *Proven (measured) reserves:* Reserves for which (a) quantity is computed from dimensions revealed in outcrops, trenches, workings, or drill holes; grade and/or quality are computed from the results of detailed sampling and (b) the sites for inspection, sampling and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth, and mineral content of reserves are well-established.

(3) *Probable (indicated) reserves:* Reserves for which quantity and grade and/or quality are computed from information similar to that used for proven (measured) reserves, but the sites for inspection, sampling, and measurement are farther apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for proven (measured) reserves, is high enough to assume continuity between points of observation.

(4) (i) *Exploration stage.*—Includes all issuers engaged in the search for mineral deposits (reserves), which are not in either the development or production stage.

(ii) *Development stage.*—Includes all issuers engaged in the preparation of an established commercially mineable deposit (reserves) for its extraction which are not in the production stage.

(iii) *Production stage.*—Includes all issuers engaged in the exploitation of a mineral deposit (reserve). Instruction-Mining companies in the exploration stage should not refer to themselves as development stage companies in the financial statements, even though such companies should comply with SFAS 7, if applicable.

(b) *Mining operations disclosure.*—Furnish the following information as to each of the mines, plants and other significant properties owned or operated, or presently intended to be owned or operated, by the registrant:

(1) The location of and means of access to the property.

(2) A brief description of the title, claim, lease or option under which the registrant and its subsidiaries have or will have the right to hold or operate the property, indicating any conditions which the registrant must meet in order to obtain or retain the property. If held by leases or options, the expiration dates of such leases or options should be stated. Appropriate maps may be used to portray the location of significant properties.

(3) A brief history of previous operations, including the names of previous operators, insofar as known.

(4) A brief description and the present state of exploration and/or development and the present condition of the property. The information provided should describe on a property-by-property basis the: (i) age, (ii) details as to modernization, (iii) total cost, and (iv) physical condition, with respect to plants, equipment, including subsurface improvements and equipment. Mines should be identified as either open-pit or underground.

(5) A brief description of the rock formations and mineralization of existing or potential economic significance on the property, including the identity of the principal metallic or other constituents insofar as known. If proven (measured) or probable (indicated) reserves have been established, state (i) the estimated tonnages and grades (or quality, where appropriate) of such classes of reserves, and (ii) the name of the person making the estimates and the nature of his relationship to the registrant.

Instructions: 1. It should be stated whether the reserve estimate is of in-place material or of recoverable material. Any in-place estimate should be qualified to show the anticipated losses resulting from mining methods and beneficiation or preparation.

2. The summation of proven (measured) and probable (indicated) ore reserves is acceptable if the difference in degree of assurance between the two classes of reserves cannot be reliably defined.

3. No estimates of reserves of lesser assurance than proven (measured) and probable (indicated) such as "possible" or "inferred" should be set forth.

(6) Describe the work already done by the registrant on the property and the registrant's proposed program of exploration or development of the property. If the property is without known reserves and the proposed

program is exploratory in nature, a statement to that effect shall be made.

(7) Show in tabular form to the extent reasonably practicable for each of the registrant's significant mines or, if appropriate, for each group of mines operating as a unit within a specific mining district or other limited area:

(i) the total tonnage of production during each of the last five fiscal years and the average grade or quality of such production during each such year;

(ii) where applicable, for each of the last five fiscal years, the average direct operating cost for mining and beneficiation per ton of production, showing separately cost of labor, power and materials, plus footnotes to the table showing the aggregated amount of additional costs, such as depletion, depreciation, administration and taxes per ton of such production, and the average dollar value realized per ton of material produced;

(iii) the source of power utilized.

(8) Show to what degree there have been material changes during the last five fiscal years, to the most recent date practicable, in the principal deposits mined or the physical mining conditions and whether any such material changes are anticipated. Describe and state the significance of any such past or anticipated changes.

(9) If technical terms relating to geology, mining or related matters whose definitions cannot be readily found in conventional dictionaries (as opposed to technical dictionaries or glossaries) are used, an appropriate glossary should be included in the registration statement.

(10) Detailed geologic maps and reports, feasibility studies and other highly technical data should not be included in the registration statement but should be, to the degree appropriate and necesary for the Commission's understanding of the registrant's presentation of business and property matters, furnished as supplemental information.

(c) *Supplemental Information.*—(1) If an estimate of proven (measured) or probable (indicated) reserves is set forth in the registration statement, furnish:

(i) maps drawn to scale showing any mine workings and the outlines of the reserve blocks involved together with the pertinent sample-assay thereon,

(ii) all pertinent frill data and related maps,

(iii) the calculations whereby the basic sample-assay or drill data were translated into the estimates made of the grade and tonnage of reserves in each block and in the complete reserve estimate.

Instructions—Maps and other drawings submitted to the staff should include:

1. A legend or explanation showing, by means of pattern or symbol, every pattern or symbol used on the map or drawing; the use of the symbols used by the U.S. Geological Survey is encouraged;

2. A graphical bar scale should be included; additional representations of scale such as "one inch equals one mile" may be utilized provided the original scale of the map has not been altered;

3. A north arrow on maps;

4. An index map showing where the property might be in relationship to the state or province, etc., in which it was located;

5. A title of the map or drawing and the date on which it was drawn;

6. In the event interpretive data is submitted in conjunction with any map, the identity of the geologist or engineer that prepared such data;

7. Any drawing should be simple enough or of sufficiently large scale to clearly show all features on the drawing.

(2) Furnish a complete copy of every material engineering, geological or metallurgical report concerning the registrant's property, including governmental reports, which are known and available to the registrant. Every such report should include the name of its author and the date of its preparation, if known to the registrant.

Any of the above-required reports as to which the staff has access need not be submitted. In this regard, issuers should consult with the staff prior to filing the registration statement. Any reports not submitted should be identified in a list furnished to the staff. This list should also identify any known governmental reports concerning the registrant's property.

(3) Furnish copies of all documents such at title documents, operating permits and easements needed to support representations made in the registration statement.

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Item 15. Financial Statements and Instructions

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(f) With respect to companies engaged or to be engaged in the mining business, attention is directed to the instruction to Item 7A(a)(4) concerning the appropriate classification of issuers engaged in the exploratory, development and production stages of mining.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K.

1. By amending § 229.20 to amend item 2 by adding paragraph (c) to read as follows.

§ 229.20 Information required in document.

* * * * *

Item 2. Description of property.

(a)* * *

(b* * *

(c) if mining operations are material to the registrant's and its subsidiaries' business operations or financial position, disclose the following under appropriate captions in tabular form where practicable, with cross-references, where applicable, to related information in the financial statements:

2(c)(1). Definitions: The following definitions apply to registrants engaged or to be engaged in significant mining operations:

(i) *Reserve:* That part of a mineral deposit which could be economically and legally extracted or produced at the time of the reserve determination. Note: Reserves are customarily stated in terms of "ore" when dealing with metalliferous minerals; when other materials such as coal, oil shale, tar sands, limestone, etc. are involved, an appropriate term such as "recoverable coal" may be substituted.

(ii) *Proven (Measured) Reserves:* Reserves for which (a) quantity is computed from dimensions revealed in outcrops, trenches, workings, or drill holes; grade and/or quality are computed from the results of detailed sampling and (b) the sites for inspection, sampling and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth, and mineral content of reserves are well-established.

(iii) *Probable (Indicated) Reserves:* Reserves for which quality and grade and/or quality are computed from information similar to that used for proven (measured) reserves, but the sites for inspection, sampling, and measurement are further apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for proven (measured) reserves, is high enough to assume continuity between points of observation.

(iv) (a) *Exploration Stage.*—Includes all issuers engaged in the search for mineral deposits (reserves) which are not in either the development or production stage.

(b) *Development Stages.*—Includes all issuers engaged in the preparation of an established commercially mineral deposit (reserve) for its extraction which are not in the production stage.

(c) *Production Stage.*—Includes all issuers engaged in the exploitation of a mineral deposit (reserve).

Instruction: Mining companies in the exploration stage should not refer to themselves as development stage companies in the financial statements even though such companies should comply with SFAS No. 7.

2(c)(2). Mining operations disclosure.—Furnish the following information as to each of the mines, plants and other significant properties owned or operated, or presently intended to be owned or operated, by the registrant:

(i) The location of and means of access to the property.

(ii) a brief description of the title, claim, lease or option under which the registrant and its subsidiaries have or will have the right to hold or operate the property, indicating any conditions which the registrant must meet in order to obtain or retain the property. If held by leased or options, the expiration dates of such leases or options should be stated. Appropriate maps may be used to portray the location of significant properties.

(iii) a brief history of previous operations, including the names of previous operators, insofar as known.

(iv) A brief description of the present state of exploration and/or development and the present condition of the property. The information provided should describe on a property-by-property basis the: (a) age, (b) details as to modernization (c) total cost, and (d) physical condition, with respect to plants, equipment and including subsurface improvements and equipment. Mines should be identified as either open-pit or underground.

(v) A brief description of the rock formations and mineralization of existing or potential economic significance on the property, including the identity of the principal metallic or other constituents insofar as known. If proven (measured) or probable (indicated) reserves have been established, state (a) the estimated tonnages and grades (or quality, where appropriate) of such classes of reserves, and (b) the name of the person making the estimates and the nature of his relationship to the registrant.

Instructions: 1. It should be stated whether the reserve estimate is of in-place material or of recoverable material. Any in-place estimate should be qualified to show the anticipated losses resulting from mining methods and beneficiation or preparation.

2. The summation of proven (measured) and probable (indicated) ore reserves is acceptable if the difference in degree of assurance between the two classes of reserves cannot be reliably defined.

3. No estimates of reserves of lesser assurance than proven (measured) and probable (indicated) such as "possible" or "inferred" should be set forth.

4. Disclosure shall be given of the effect on ownership of reserves of any takeover or nationalization by foreign governments of properties owned by the registrant, including any change of property interest into a long-term supply, purchase or similar agreement.

5. If any foreign government restricts the disclosure of estimated reserves for properties under its governmental authority, or amounts under long-term supply, purchase, or similar agreements, or if the foreign government requires the disclosure of reserves other than proven and probable, the registrant should notify the Office of Engineering, Division of Corporation Finance, of the Commission. If the required information is not disclosed or if categories of reserves other than proven or probable are disclosed for these reasons, the document should identify the country, cite the law or regulation which restructs or requires such disclosure, and indicate that the reported reserve estimates or amount do not include figures for the named country or that the reserve estimates include reserves other than proven or probable.

(vi) Describe the work already done by the registrant on the property and the registrant's proposed program of exploration or development of the property. If the property is without known reserves and the proposed program is exploratory in nature, a statement to that effect shall be made.

(vii) Show in tabular form to the extent practicable for each of the registrant's significant mines or, if appropriate, for each group of mines operating as a unit within a specific mining district or other limited area:

(a) The total tonnage of production during each of the last five fiscal years and the average grade or quality of such production during each such year;

(b) Where applicable, for each of the last five fiscal years, the average direct operating cost for mining and beneficiation per ton of production, showing separately cost of labor, power and materials, plus footnotes to the table showing the aggregated amount of additional costs such as depletion, depreciation, administration, taxes, etc., per ton of such production, and the average dollar value realized per ton of material produced;

(c) The source of power utilized.

(viii) Show to what degree there have been material changes during the last five fiscal years, to the most recent date practicable, in the principal deposits mined or the physical mining conditions and whether any such material changes are anticipated. Describe and state the significance of any such past or anticipated changes.

(ix) If technical terms relating to geology, mining or related matters whose definitions cannot be readily found in conventional dictionaries (as opposed to technical dictionaries or glossaries) are used, an appropriate glossary should be included in the registration statement.

(x) Detailed geologic maps and reports, feasibility studies and other highly technical data should not be included in the registration statement but should be, to the degree appropriate and necessary for the Commission's understanding of the registrant's presentation of business and property matters, furnished as supplemental information.

(xi) If the registrant is obligated to provide a fixed and determinable quantity of minerals in the future under existing contracts or agreements, material information concerning the estimated availability of minerals from any principal sources.

(a) Such information shall be furnished as to current and future reserves and supplies, and shall (A) identify the principal sources of minerals to be relied upon and the total available amounts expected to be received from each principal source and from all sources combined; (B) disclose the total quantities of minerals which are subject to delivery commitments; and (C) indicate steps taken to insure available reserves and supplies are sufficient to meet such commitments. Such future information shall be provided for an appropriate period of one to five years.

(b) The registrant should develop disclosure based upon the facts and circumstances of its particular situation, including disclosure by appropriate geographic areas. Such disclosure should be in a form understandable to investors and should include, but not be limited to, a description of the following factors: (A) significant supplies dedicated or contracted to the registrant; (B) any significant amounts of reserves or supplies subject to priorities or curtailments which may affect quantities delivered to certain classes of customers, such as customers receiving services under low priority and

interruptible contracts; (C) any priority allocations or price limitations imposed by federal or state regulatory agencies, as well as other factors beyond the control of the registrant which may affect the ability of the registrant to meet its contractual obligations (detailed discussions of price regulation need not be furnished); (D) any other factors beyond the control of the registrant, such as competition for the acquisition of reserves and supplies, and the availability of foreign reserves and supplies which may affect the ability of the registrant to acquire additional reserves and supplies, or to maintain or increase the availability of reserves and supplies; and (E) any impact on the registrant's earnings and financing needs resulting from its inability to meet short or long-term contractual obligations.

(c) If within the last five years the registrant has been unable to meet any significant delivery commitments, describe the circumstances concerning such events and the impact on the registrant.

2(c)(3). Supplemental information.—General Instruction: In filings on Form 10–K, the supplemental information required by this Item 2(c)(3) need only be furnished if requested by the staff.

(i) If an estimate of proven (measured) or probable (indicated) reserves is set forth in the registration statement, furnish:

(a) maps drawn to scale showing any mine workings and the outlines of the reserve blocks involved together with the pertinent sample-assay thereon,

(b) all pertinent drill data and related maps,

(c) the calculations whereby the basic sample-assay or drill data were translated into the estimates made of the grade and tonnage of reserves in each block and in the complete reserve estimate.

Instructions—Maps and other drawings submitted to the staff should include:

1. A legend or explanation showing, by means of pattern or symbol, every pattern or symbol used on the map or drawing; the use of symbols used by the U.S. Geolgical Survey is encouraged;

2. A graphical bar scale should be included; additional representations of scale such as "one inch equals one mile" may be utilized provided the original scale of the map has not been altered;

3. A north arrow on maps;

4. An index map showing where the property might be in relationship to the state or province, etc., in which it was located;

5. A title of the map or drawing and the date on which it was drawn;

6. In the event interpretive data is submitted in conjunction with any map, the identity of the geologist or engineer that prepared such data;

7. Any drawing should be simple enough or of sufficiently large scale to clearly show all features on the drawing.

(ii) Furnish a complete copy of every material engineering, geological or metallurgical report concerning the registrant's property, including governmental reports, which are known and available to the registrant. Every such report should include the name of its author and the date of its preparation, if known to the registrant.

Any of the above-required reports as to which the staff has access need not be submitted. In this regard, issuers should consult with the staff prior to filing the registration statement. Any reports not submitted should be identified in a list furnished to the staff. This list should also identify any known governmental reports concerning the registrant's property.

(iii) Furnish copies of all documents such as title documents, operating permits and easements needed to support representations made in the registration statement.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; sec. 28(c) 84 Stat. 1435; secs. 1, 2, 3–5, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78n, 78o(d), 78w(a))

The Commission hereby proposes for comment amendments to Form S–18 and an amendment to rescind Form S–3 pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933. The Commission also proposes for comment amendments to Regulation S–K pursuant to all of the 1933 Act provisions referred to above and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 7, 1980.

[FR Doc. 80-32299 Filed 10-16-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436, 446, and 546

[Docket No. 80N-0249]

Tetracycline Hydrochloride and Oxytetracycline Hydrochloride; Revised Dissolution Test for Human and Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the antibiotic drug regulations by replacing the current procedure for evaluating dissolution test results for tetracycline hydrochliride tablets and capsules and oxytetracycline hydrochloride capsules with the dissolution acceptance table published in the United States Pharmacopeia (USP). The agency is taking this action to provide for a more reasonable interpretation of the dissolution test results.

DATES: Comments by December 15, 1980. The final regulation based on this proposal will become effective 30 days after the date of its publication in the **Federal Register.**

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

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 17, 1979 (44 FR 48186), the Food and Drug Administration (FDA) issued a final rule amending the antibiotic drug regulations to require dissolution testing for tetracycline hydrochloride (HCl) tablets and capsules for human and animal use and oxytetracycline HCl capsules for human use. It took the action to provide a method by which the bioequivalence of these drug products could be ensured.

The regulations provide that the capsules or tablets fail the dissolution test if an individual dosage unit does not meet the specified standard. Thus, no provision is made for repeat testing of a dosage unit which initially fails the specified standard. The dissolution acceptance criteria in the official USP, however, provide three steps in the interpretation of dissolution test results. If test results for a product meet the specified standard at stage 1, the sample

passes the test. If, however, the results do not meet the specified standard, repeat testing of a dosage unit is permitted in stage 2 and, if necessary, stage 3.

In light of several months of testing experience, the agency views the USP dissolution acceptance criteria as more appropriate than those required by the regulations. The USP method is less rigid because of the provision for retesting, and it has a sounder statistical basis. For these reasons, therefore, the agency proposes to amend the antibiotic drug regulations by replacing the method for evaluating the dissolution test results for tetracycline HCl tablets and capsules and oxytetracycline HCl capsules with the official USP dissolution acceptance criteria.

For updating purposes, the agency proposes to revise § 436.541 by replacing the reference to USP XIX with reference to the USP XX, which is the current USP volume. The USP XIX Apparatus 2 equipment and methodology referred to in § 436.541, and which must be used in the dissolution testing of tetracycline HCl tablets and capsules and oxytetracycline HCl capsules is identical to the Apparatus 2 equipment and methodology set forth in the USP XX.

The agency has determined that under 21 CFR 25.24 (b)(22) and (d)(9) (proposed in the Federal Register of December 11, 1979; 44 FR 71842), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 436, 446, and 546 be amended as follows:

Subchapter D—Drugs for Human Use

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. In Part 436, § 436.541 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 436.541 Tetracycline hydrochloride tablets and capsules; oxytetracycline hydrochloride capsules; dissolution test.

(a) *Equipment.* Use Apparatus 2 as described in the United States Pharmacopeia XX dissolution test with the following exception: A distance of 4.5±0.5 centimeters should be maintained between the lower edge of the stirring blade and the lowest inner surface of the vessel during the test.

(b) *Procedure.* For each dosage form listed in the table in this paragraph select the appropriate dissolution medium, stirring blade rotation rate and sampling time and proceed as set forth in Apparatus 2 methodology of the United States Pharmacopeia XX dissolution test. Determine the amount of drug substance dissolved by performing the assay described in paragraph (c) of this section. The amount of dissolution medium removed for sampling purposes may be disregarded if the amount removed is not more than 15 milliliters. If more than 15 milliliters is removed, then correct for the volume removed.

* * * * *

(d) *Evaluation.* Use the dissolution acceptance table and interpretation in the United States Pharmacopeia XX.

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

2. In Part 446:

a. Section 446.167 is amended by revising the next to last sentence in paragraph (a)(1) and by revising paragraph (b)(3), to read as follows:

§ 446.167 Oxytetracycline hydrochloride capsules.

(a) * * *

(1) * * * It passes the dissolution test. * * *

* * * * *

(b) * * *

(3) *Dissolution.* Proceed as directed in § 436.541 of this chapter. The quantity Q (the amount of oxytetracycline hydrochloride dissolved) is 60 percent in 30 minutes and 85 percent in 60 minutes.

b. Section 446.181d is amended by revising the fifth sentence in paragraph (a)(1) and by revising paragraph (b)(3), to read as follows:

§ 446.181d Tetracycline hydrochloride tablets.

(a) * * *

(1) * * * It passes the dissolution test. * * *

* * * * *

(b) * * *

(3) *Dissolution.* Proceed as directed in § 436.541 of this chapter. The quanity Q (the amount of tetracycline hydrochloride dissolved) is 60 percent in 30 minutes and 85 percent in 60 minutes.

* * * * *

c. Section 446.181e is amended in paragraph (a)(1) by deleting the sixth and seventh sentences and substituting a new single sentence, and by revising paragraph (b)(4), to read as follows:

§ 446.181e Tetracycline hydrochloride capsules.

(a) * * *

(1) * * * It passes the dissolution test. * * *

* * * * *

(b) * * *

(4) *Dissolution.* Proceed as directed in § 436.541 of this chapter. The quantity Q (the amount of tetracycline hydrochloride dissolved), except for the 500-milligram capsule, is 60 percent in 30 minutes and 85 percent in 60 minutes. For the 500-milligram capsule, the quantity Q is 50 percent in 30 minutes, 70 percent in 60 minutes, and 85 percent in 90 minutes.

Subchapter E—Animal Drugs, Feeds, and Related Products

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

3. In Part 546, § 546.110d is amended by revising the fourth sentence in paragraph (a)(1) and by revising paragraph (b)(4), to read as follows:

§ 546.110d Chlortetracycline hydrochloride tablets.

(a) * * *

(1) * * * If it is tetracycline hydrochloride tablets not exceeding 15 millimeters in diameter or not intended solely for use in preparing solutions, it passes the dissolution test. * * *

* * * * *

(b) * * *

(4) *Dissolution.* Proceed as directed in § 436.541 of this chapter. The quantity Q (the amount of tetracycline hydrochloride dissolved) is 60 percent in 30 minutes and 85 percent in 60 minutes.

* * * * *

Interested persons may, on or before December 15, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before November 17, 1980, submit to the Hearing Clerk (address above) a request for an informal conference. If an informal conference is held, interested persons will have until December 15, 1980 or 30 days from the date of the conference, whichever is later, to submit their comments.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

October 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-31956 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[Docket No. R-80-792]

Community Development Block Grants; Clarifications and Changes to Urban Development Action Grant Rules; Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of congressional waiver request.

SUMMARY: Section 7(o)(4) of the Department of Housing and Urban Development Act permits the Secretary of HUD to request a waiver of the legislation's requirement of a 20 day delayed effective date for final rules in appropriate instances. This notice lists and briefly summarizes for public information a final rule concerning the requirements, policies, and procedures of the action grant program with respect to which the Secretary is presently requesting a waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW, Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Currently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of the 20-day delayed effective date for the final rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR Part 570, Community Development Block Grants; Clarifications and Changes to Urban Development Action Grant Rules.

This rule revises the requirements governing urban development action grants. The rule clarifies policies and procedures used in the action grant program in order to better inform potential applicants of program requirements.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., October 9, 1980.

Moon Landrieu,

Secretary, U.S. Department of Housing and Urban Development.

[FR Doc. 80-32393 Filed 10-16-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 570

[Docket No. R-80-759]

Modifications to Urban Development Action Grant Rules; Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of congressional waiver request.

SUMMARY: This legislation permits the Secretary to request waiver of the legislation's requirements in appropriate instances under Section 7(o)(4) of the Department of Housing and Urban Development Act. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice the Secretary is forwarding to the Chairman and Ranking Minority members of both Congressional Banking Committees the interim rule listed below. The purpose of the transmittal is to request waiver of the 20 day delayed effective date requirements for the final rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

This rule amends Part 570, Subpart G, Modifications to Urban Development Action Grant Rules by adding a new § 570.466. It finalizes the requirements governing Urban Development Action Grants availability to assist communities in revitalizing the economic base of their pockets of poverty.

Issued at Washington, D.C., October 9, 1980.

Moon Landrieu,

Secretary, U.S. Department of Housing and Urban Development.

[FR Doc. 80-32301 Filed 10-16-80; 8:45 am]

BILLING CODE 4210-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1244

[Ex Parte No. 385]

Revision of Waybill Analysis of Transportation of Property—Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is giving consideration to modification of its orders requiring certain railroads to submit waybills used for the continuous study of rail carload terminations, generally known as the "One-Percent Waybill Sample." The primary purpose of the modifications is to give railroads the option of reporting minimum essential traffic information by means of computer tapes in lieu of hard copy waybills. Rules governing the submission of hard copy waybills are also changed to clarify the procedures, to improve the reliability of the study results and to reduce some of the reporting requirements.

DATE: Comments must be received on or before November 17, 1980.

ADDRESS: Send an original and 10 copies of comments to: Office of Policy and Analysis, Room 7326, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Ernest R. Olson, Telephone: 202-275-0783.

SUPPLEMENTARY INFORMATION: Since 1946, the Interstate Commerce Commission has collected a continuous sample of carload waybills from railroads terminating the shipments. The sample was designed to yield approximately one-percent of the total

carloads terminated by railroads subject to the reporting rules. The sample is the only known source from which reasonably reliable and comprehensive information can be obtained on rail carload freight traffic flow and its characteristics. It is intended primarily to serve the needs of the Commission and the Department of Transportation,[1] but is also widely used to serve the traffic data needs of other Federal, State and local governments, the transportation industry, shippers, research organizations, universities and others.

The technical design of the waybill sample has remained essentially the same throughout its history. After considerable study, the Commission believes the time has come to revise the sampling process taking advantage of improved statistical theory and the widespread usage of computers by railroads in their business processes, and to recognize that much railroad traffic moves in multiple car lots. The proposed modifications should raise the quality of the sample study results and, at the same time, reduce the railroads' reporting costs and the Government's processing costs.

The proposed rules set forth two options for railroads subject to the order for selecting and submitting the waybill information: a respondent railroad may either furnish a computer tape which is acceptable to the Commission containing specified information from a sample of waybill records (machine readable input MRI system) or submit authenticated copies of the front only of audited waybills (manual system).

Railroads choosing to use the MRI system would be required to conform to standards and format developed and agreed to informally by staff of the Department of Transportation and the Interstate Commerce Commission and representatives of the Association of American Railroads' Revenue and Statistics Committees and the Cost Analysis Organization. A copy of the *Procedures for Sampling Waybill Records by Computer* is available on request to:

Office of Policy and Analysis, Interstate Commerce Commission, Washington, D.C. 20423. Attention: William Norris.

Generally the procedures provide that to be eligible for the MRI system, each railroad must furnish the minimum waybill data elements in a standard computer tape format for a given number of waybill records selected on the basis of the number of carloads for the waybill movement. The sampling rate increases as the number of carloads for the waybill increases. Also, before beginning to use the MRI system for reporting purposes, the railroad would be required to satisfy two tests designed to show that its sampling procedures are technically adequate and that the reported information is valid.

Railroads choosing the manual system would submit a copy of all waybills with less than 6 carloads covering shipments terminating on its lines whose serial numbers are 1 or end in 01, all terminating waybills with 6 to 25 carloads whose serial numbers end in 1, and all terminating waybills with 26 or more carloads per waybill whose serial numbers end in 1 or 7. The current requirement for submitting supplemental information on the type of rate in the Supplemental Statement is eliminated. Also eliminated is the EM–5 system of reporting multiple car shipments voluntarily used by over 35 of the roads.

The proposed rule also modifies the definition of railroads required to report waybills from an average annual revenue standard ($3,000,000 or more) to one based on the number of carloads terminated (4,500 or more annually or 5% of the terminations in a state). The purpose of these changes is to relieve smaller railroads from the reporting burdens and to assure more adequate and stable coverage of total traffic movements since the number of carloads terminated is not affected by monetary inflation.

Also, the definition of railroad for reporting waybill information includes railroads or terminal companies that handle terminating waybills for revenue billing or interline settlement for another railroad. A respondent may be an individual railroad company or collectively a railroad and its operating subsidiaries reporting to the Commission on a consolidated basis.

The proposed rule, for the first time, defines a waybill so as to make clear that all documents or instruments used by railroads for disposition of freight, authority for moving shipments and as a basis for determining and setting freight charges and interline settlements are included in this sample. Experience indicates that in the past some shipments may have been excluded from the sample selection process because the documentation was not considered to be a "waybill."

Sampled waybills, or the computer processed waybill information are required to be filed within 45 days from the end of the audit month (quarter, optional for tape submission). At present railroads are required to file waybills at least once each month, but there is no requirement respecting the number of days following the audit month. This revision should improve the timeliness of the sample results by avoiding the delays sometimes experienced in the past in submitting the waybill information.

It does not appear that the proposed regulations will significantly affect either the quality of the human environment or conservation of energy resources. However, comments on this point are invited.

Attached is the proposed revision of 49 CFR Part 1244 Waybill Analysis of the Transportation of Property Railroads.

Authority: 49 U.S.C. 11144.

Dated: September 26, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Part 1244 would be revised to read as follows:

PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

Sec.

1244.1 Waybills.
1244.2 Sampling of waybills.
1244.3 Date of filing.

Authority: 49 U.S.C. 11144.

§ 1244.1 Waybills.

(a) Effective January 1, 1981, and thereafter unless otherwise ordered, all railroads and terminal companies [1] handling terminating waybills for revenue billing or interline settlement under special agreement for another railroad subject to the Interstate Commerce Act as revised, and every receiver, trustee, executor, administrator or assignee of any such railroad, terminating 4,500 or more carloads, or 5 percent of the cars terminating for any state in a year, or an immediate prior year, are hereby required to file sample waybill information.[2] Railroads shall also submit the required waybill information for any railroad subsidiaries. A railroad may submit this

[1] Under a Memorandum of Agreement, FR Doc. 70–9634, published July 25, 1970, the sample waybills submitted in response to the Commission's order, are processed by the Department of Transportation.

[1] For purposes of this order, a railroad (including terminal companies) is an individual railroad, or collectively the railroad and its rail operating subsidiaries reporting to the Commission in their annual report on a consolidated basis.

[2] All railroads shall maintain a record of the number of freight carloads terminating on their line annually and shall furnish this number certified by a responsible officer as correct when requested by the Commission for determining whether the railroads meet the criteria for reporting under this order.

information in one of the following two ways.

(1) Authenticated copies of the front only of audited waybills—the manual system.

(2) A computer tape containing specified information from a sample of waybills—the computerized system.

(b) A waybill, which may be referred to by other names, such as mine tickets, is the document or instrument prepared from the bill of lading contract or shipper's instructions as to the disposition of the freight, and used by the railroad(s) involved as the authority to move the shipment and as the basis for determining the freight charges and interline settlements.

§ 1244.2 Sampling of waybills.

(a) *For the manual system,* the sample of required waybill shall be as follows:

(1) All waybills with less than 6 carloads whose serial numbers are 1 or end in 01,

(2) All waybills with 6 to 25 carloads per waybill, whose serial numbers end in 1, and

(3) All waybills with 26 or more carloads per waybill, whose serial numbers end in 1 or 7.

Each respondent railroad shall maintain a control procedure to ensure complete and accurate reporting for the waybill sampling. All pertinent waybill data shall be included on hard copy waybill submissions.

(b) *For the computerized system,* the tape shall be required to conform to the standards and format specified in the *Procedure for Sampling Waybill Records by Computer* issued by the Interstate Commerce Commission. The sampling rate shall be as follows:

	Sample rate
Number of carloads on waybill:	
1–2	1/40
3–15	1/12
16–60	1/4
61–100	1/3
101 and over	1/2

§ 1244.3 Date of filing.

(a) Copies of waybill or computer processed waybill information should be forwarded upon completion of audit, but shall be forwarded within 45 days from the end of the audit month (or quarter, optional for tape submissions) to the ICC or a Contractor as specified by ICC.

(b) Certification by a responsible officer as to the completeness and accuracy of the sample shall be made once a year in accordance with the Transmittal Form and instructions thereon.

[FR Doc. 80-32400 Filed 10-16-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Kentucky Cave Shrimp

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Kentucky cave shrimp (*Palemonias ganteri*) to be an Endangered species. This action is being taken in response to a petition which indicates that this species is not extinct, as previously suspected, and that its remaining population is restricted by unseasonal flooding of its habitat and endangered by groundwater contamination. The Kentucky cave shrimp is now known to occur only in the Roaring River passage of the Flint Mammoth Cave System, Mammoth Cave National Park, Edmonson County, Kentucky. The proposed rule would provide protection to wild populations of this species. Critical Habitat is included with this proposed rule. Comments and other information are sought from the public.

DATES: Comments from the public and from the Governor of Kentucky must be received by January 15, 1981. A public meeting on this proposal will be held on Wednesday, December 10, 1980 at 7:00 PM in Room 305, Downing University Center, Western Kentucky University, Bowling Green, Kentucky.

ADDRESSES: Interested persons or organizations are requested to submit comments to Directors (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The time and place of a public meeting on this proposal is presented above.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Kentucky cave shrimp (*Palaemonias ganteri*) is a crustacean that has been found only in the Flint Mammoth Cave System of Kentucky. Its reduced eyes and lack of body pigment indicate that the species has had a long history of subterranean existence. Its preferred habitats within the cave system are pools that are exposed to seasonal flooding. The kentucky cave shrimp is a member of the family Atyidae. Only three existing species of this family are known from North American north of Mexico.

On April 28, 1975, the Service published in the **Federal Register** (40 FR 18476–18477) a notice that it was reviewing the status of 57 species of freshwater crustaceans, including the Kentucky cave shrimp. The Kentucky cave shrimp was proposed to be listed as a threatened species on January 12, 1977 (42 FR 2507). That proposal was withdrawn on December 10, 1979 (44 FR 70796) under a provision of the 1978 amendments to the Endangered Species Act of 1973 which required withdrawal of all pending proposals if they were not finalized one year after passage of the amendments.

On March 28, 1980 the Service published a notice (45 FR 20502–20503) announcing the acceptance of a petition submitted by Dr. Raymond W. Bouchard to list the Kentucky cave shrimp as an Endangered or Threatened species. By ths action, the Service determined that the petition contained sufficient new evidence to repropose listing this species as Endangerd or Threatened. This notice also solicited comments from interested persons having knowledge of this species, threats to the species or possible impacts of listing. One comment on this notice was received from the Kentucky Nature Preserves Commission. This comment supported listing and cited threats to this species from sewage pollution and disruption of breeding pools by premature opening of floodgates.

Factors Affecting the Species

The Service's listing regulations (Section 424.11(b), Title 50, Code of Federal Regulations) state:

A species shall be listed if the Director determines on the basis of the best scientific and commercial data available to him after conducting a review of the species' status that the species is Endangered or Threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;

(3) Disease or predation;

(4) Absence of regulatory mechanisims adequate to prevent the decline of a species or degradation of its habitat; and

(5) Other natural or manmade factors affecting its continued existence.

These findings are summarized herein under each of the five criteria of 50 CFR 424.11. These factors, and their application to the Kentucky cave shrimp, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Kentucky cave shrimp's preferred habitats are quiet silt bottom pools associated with seasonal sediment deposits (Poulson and Kane, 1977; Bouchard, 1979). Such pools containing the Kentucky cave shrimp were formerly known in the Golden Triangle area and the Styx and Echo River passages of the Flint Mammoth Cave System. Year round backflooding from Lock and Dam 6 on the Green River has eliminated these preferred habitats in the Styx and Echo Rivers passages.

The species has not been found in recent years in areas where it was formerly abundant. On September 1, 1979, a single dead specimen was found in the shrimp pools of the Roaring River passage, where the previous last find was recorded in 1967. There is some evidence (Duchon and Lisowski, 1980) that backflooding from Lock and Dam 6 also causes siltation and flooding of the Roaring River passage.

Another possible factor affecting the habitat is groundwater contamination. A recent incident of groundwater contamination caused a kill of crayfish and other animals in a part of the cave system. Such incidents have the potential of endangering organisms, including the Kentucky cave shrimp, that are found in other parts of the interconnecting cave system.

2. *Utilization for commercial, sporting, scientific or educational purposes at levels that detrimentally effect it.* Not applicable to this species.

3. *Disease or predation.* Not applicable to this species.

4. *Absence of existing regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat.* Wildlife are protected by the National Park Service within Mammoth Cave National Park. The threats to the habitat of the Kentucky cave shrimp are located outside the park.

The Kentucky cave shrimp is listed as threatened on the Kentucky Nature Preserves Commission Natural Heritage Program Species Element List. However, this designation carries no legal protection.

5. *Other natural or man-made factors affecting its continued existence.* Not applicable to this species.

Critical Habitat

50 CFR Part 424 defines "Critical Habitat" to include (a) areas within the geographical area occupied by the species, at the time that species is listed, which are essential to the conservation of the species and which may require special management considerations or protection; and (b) specific areas outside the geographic area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Proposed Critical Habitat for the Kentucky cave shrimp is the Roaring River passage of the Flint Mammoth Cave System, Mammoth Cave National Park, Edmonson County, Kentucky. This area contains the last preferred habitat of this species which receives nutrient inflow from seasonal flooding that leaves quiet pools for feeding, breeding and larval growth. The Roaring River passage is the only remaining area where the species is known to occur and all of the physical and biological constitutents necessary for its survival can be found. The activities which may adversely modify such habitat are described in the above discussion.

Effect of This Proposal if Published as a Final Rule

Endangered Species regulations already published in Title 50 Sections 17.21 and 17.31 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species, respectively. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 7(a) of the Act requires all Federal agencies to evaluate their actions with respect to Endangered species. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Kentucky cave shrimp, but also would require them to insure that their actions do not result in the destruction or adverse modification of the Critical Habitat which has been determined by the Director. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

The proposed Critical Habitat may be affected by backflooding from Lock and Dam 6 on the Green River and by releases of water by Nolin Dam on the Nolin River that contribute to backflooding from Lock and Dam 6. The U.S. Army Corps of Engineers is now considering dismantling Lock and Dam 6 as part of a navigation plan for the Green River. If backflooding from Lock and Dam 6 is found to affect the proposed Critical Habitat, then this portion of the navigation plan would be a subject of consultation. If Lock and Dam 6 is not dismantled and releases from Nolin Dam are found to affect the proposed Critical Habitat, then release schedules for Nolin Dam could be a subject of consultation between the Corps of Engineers and the Service. Water treatment facilities that affect the groundwater entering the Flint Mammoth Cave System may require consultation between the Service and the Environmental Protection Agency. The National Park Service would have to enter into consultation with the Service over any change in use of the Critical Habitat, if determined, that might affect the Kentucky cave shrimp.

The usual result of such consultation is modification of activities rather than their curtailment.

The Service is required to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities which may adversely modify the subject area which is being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation of federally funded or authorized projects.

Public Meeting

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. This meeting will be held on Wednesday December 10, 1980 at 7:00 p.m. in Room 305, Downing University Center, Western Kentucky University, Bowling Green, Kentucky.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (40 CFR Parts 1500–1508).

The Service has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Primary Author

The primary author of this proposed rule is Dr. Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–1975).

References

Bouchard, Raymond W. 1979. Conservation status report on the Mammoth Cave shrimp, *Palaemonias ganteri*. Submitted as part of a petition to the Office of Endangered Species, December 12, 1979.

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Hixon, W. 1979. Cave discovery causing concern. *Daily News*, Bowling Green, Kentucky, October 2, 1979.

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Poulson, T. L., and T. C. Kane. 1977. Ecological diversity and stability: Principles and management. *In* T. Aley and D. Rhodes (eds.). Proceedings National Cave Management Symposium. Speleobooks, Albuquerque.

U.S. Army Corps of Engineers. 1978. Green and Barren Rivers, Kentucky Navigation Study: Preliminary Feasibility Report U.S. Army Corps of Engineers, Louisville District.

U.S. Army Corps of Engineers. 1979. Green and Barren Rivers, Kentucky Navigation Study: An Information Brochure. U.S. Army Corps of Engineers, Louisville District.

Regulations Promulgation

1. It is proposed to amend § 17.11 by adding, in alphabetical order the following to the list of animals (crustaceans):

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate[1]	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Shrimp, Kentucky Cave	*Palaemonias ganteri*	U.S.A. (Kentucky)	NA	E		Yes	NA

[1] Vertebrate population where endangered or threatened.

§ 17.95h Crustaceans. [Amended]

2. It is further proposed that § 17.95h, crustaceans, be amended by adding Critical Habitat of the Kentucky cave shrimp as follows:

Kentucky Cave Shrimp

(Palaemonias ganteri)

Kentucky, Edmonson County: The Roaring River passage of the Flint Mammoth Cave System in Mammoth Cave National Park. Known constituent elements include quiet silt-bottomed pools that are seasonally flooded.

KENTUCKY CAVE SHRIMP
Edmonson County KENTUCKY

Dated: October 3, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-32335 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-55-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL 1637-2]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: On March 21, 1980 the State of Ohio, pursuant to section 107(d)(5) of the Clean Air Act (Act), requested that USEPA change the carbon monoxide designation for Summit and Lucas Counties from nonattainment to attainment. The State submitted additional support data on April 4, May 8, May 15 and May 22, 1980. USEPA has reviewed the redesignation request and the ambient air quality monitoring data submitted by the State and proposes to designate Lucas and Summit Counties as unclassifiable. The purpose of this notice is to announce receipt of the redesignation request; to discuss the results of USEPA's review; to propose rulemaking action on the redesignation request; and to invite public comment either on the redesignation request or on USEPA's proposed rulemaking.

DATE: Comments on these redesignations and on USEPA's rulemaking action are due November 17, 1980.

ADDRESS COMMENTS TO: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Richard Clarizio, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, FTS-8-886-6035. Copies of the redesignation request, technical support documents, and the supporting air quality data are available at the address given above and at:

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 20460.

Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (Act) directing each state to submit to the Administrator of the USEPA a list of those areas within the state which had ambient air concentrations of the pollutants sulfur dioxide (SO_2), total suspended particulates (TSP), nitrogen oxides (NOx), carbon monoxide (CO) and ozone (03) which exceeded the USEPA established primary and secondary National Ambient Air Quality Standards (NAAQS) for each of these pollutants. These areas were to be designated as nonattainment areas. The areas within each State which had ambient air concentrations below the NAAQS level were to be designated as attainment. Those areas which lacked sufficient monitoring data to accurately determine their status were to be designated as unclassified.

The purpose of making these designations was to determine which areas within the state required additional measures to control and to reduce the emissions of these five air pollutants. For those areas designated as nonattainment, the Clean Air Act Amendments of 1977 required the state to submit a revised State Implementation Plan (SIP) by January 1, 1979. The revised SIP for carbon monoxide was to provide for sufficient reductions to ensure attainment of the carbon monoxide NAAQS by December 31, 1982 (or under certain circumstances by December 31, 1987).

For both of these counties the State submitted a revised SIP for carbon monoxide on July 27, 1979. In the March 10, 1980 **Federal Register** (45 FR 15192) USEPA proposed to approve the revised SIP for Summit County, and to conditionally approve the revised SIP for Lucas County. USEPA, however, will withhold final action on these revised SIPs until a final determination is made on this redesignation request. If this request is approved, and these areas are redesignated as either attainment or unclassifiable, then there would no longer be a need for a carbon monoxide nonattainment SIP revision in the counties, because attainment of the carbon monoxide NAAQS will have been achieved. Consequently, USEPA would then take no final action on these SIP revisions.

In the March 3, 1978 **Federal Register** (43 FR 8962) and in the October 5, 1978 **Federal Register** (43 FR 45993) the Administrator of the USEPA promulgated lists of the nonattainment areas for each pollutant in each state. These lists also contained classifications for the attainment and unclassified areas within the state. In Ohio, the following counties were designated in the October 5, 1978 **Federal Register** as nonattainment for carbon monoxide: Cuyahoga, Franklin, Hamilton, Jefferson, Lucas, Mahoning, Montgomery and Summit. All other areas within the State were designated as attainment/unclassifiable for carbon monoxide.

These nonattainment designations were based on monitored violations in the years 1975 and 1976 of the primary NAAQS for carbon monoxide. A violation of the primary NAAQS for carbon monoxide occurs when, in a calendar year, the monitored concentration of carbon monoxide exceeds, more than once, either the maximum allowable eight hour or maximum allowable one hour concentration of carbon monoxide. The maximum eight hour concentration is 10 milligrams of carbon monoxide per cubic meter of air. The maximum one hour concentration is 40 milligrams of carbon monoxide per cubic meter of air.

According to Section 107(d) of the Act, the designation for an area may be changed whenever sufficient data exists to warrant such a change. In the June 12, 1979 memo entitled "Section 107 Redesignation Criteria", Richard G. Rhoads, the Director of USEPA's Control Program Development Division, described USEPA's requirements for approval of a change in an area designation from nonattainment to either attainment or unclassifiable. In the case of carbon monoxide, such a change may be approved if there are eight quarters of recent ambient air quality data which show no violations of either the primary or secondary carbon monoxide NAAQS.

The State of Ohio on March 21, 1980 requested USEPA to change the designation of Lucas and Summit Counties from nonattainment for carbon monoxide to attainment. This request was based on the ambient air quality data from the years 1977-1979 which showed that during these years there were no violations of either the primary

or secondary carbon monoxide NAAQS in those two counties.

USEPA has reviewed the ambient air quality data submitted by Ohio and has determined that the data is valid and that there were no violations of either the primary or the secondary NAAQS for carbon monoxide in these two counties during that period. Although the State requested that these areas be redesignated to attainment, USEPA is proposing that they be redesignated as unclassifiable. In proposing this action USEPA recognizes that there were no monitored violations of the carbon monoxide NAAQS in these counties. However, due to the limited monitoring network employed in these two counties USEPA believes that an unclassifiable designation is more appropriate.

A thirty day comment period is being provided to enable publication of final action on these redesignations as soon as possible. Expeditious final action is desired since it may alleviate some of the statutory growth restrictions imposed by Section (110(a)(1)(I) of the Clean Air Act.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant," and therefore subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979, by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 107 of the Clean Air Act as amended, (42 U.S.C. 7407))

Dated: September 19, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-32341 Filed 10-16-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 123

[SWFRL 1638-6]

Louisiana: Submission for Approval of Interim Authorization Plan, Phase I, Hazardous Waste Management Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period.

SUMMARY: In the May 19, 1980 Federal Register (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which become effective 6 months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

As noted in the May 19, 1980 Federal Register, copies of state submittals for Phase I Interim Authorization are to be available for public inspection and comment. By publication in the Federal Register of September 24, 1980, the Environmental Protection Agency announced reciept of Louisiana's Phase I Interim Authorization Application, the availability of the Application for review a public comment period on the Application and a public hearing thereon to be held on October 23, 1980.

This is to announce the EPA has received additional material in connection with the Application, included in which is an amended Authorization Plan. The amendments to the Authorization Plan and the other additional material received are considered by EPA to be sufficiently extensive as to justify notice thereof and to establish a separate comment period for the amended authorization plan and the additional material received in connection with the Application.

DATE: Comments on this additional material must be received by November 17, 1980.

ADDRESS: Accordingly, notice is hereby given that copies of the amended Authorization Plan are available for inspection and copying at the following addresses:

Environmental Protection Agency, Region VI, Library, 28th floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767-7341;

Louisiana Department of Natural Resources, Office of Environmental Affairs, 6th floor, P.O. Box 44066, 625 North Fourth Street, Baton Rouge, Louisiana 70804, (504) 342-1265.

Written comments should be sent to: Environmental Protection Agency, Region VI, Air and Hazardous Materials Division, Attention: Rena McClurg, Solid Waste Branch, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Rena McClurg, Telephone (214) 767-2645.

Dated: October 15, 1980.

Adlene Harrison,

Regional Administrator.

[FR Doc. 80-32613 Filed 10-16-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 123

[SW8 FRL 1638-7]

Utah Application for Interim Authorization, Phase I Hazardous Waste Management Program; Public Hearing

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the Federal Register on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Utah application for Phase I, interim authorization, inviting public comment, and giving notice of a Public Hearing to be held on the application.

DATE: Comments on the Utah interim authorization application must be received by November 14, 1980.

PUBLIC HEARING: EPA will conduct a Public Hearing on the Utah interim authorization application at 9:30 a.m. on November 14, 1980. EPA reserves the right to cancel the Public Hearing if significant public interest in a hearing is not expressed. The State of Utah will participate in any Public Hearing held by EPA on this subject.

ADDRESSES: Copies of the Utah interim authorization application are available at the following addresses for inspection and copying by the public:

Utah State Division of Health, Room #426, 150 W. N. Temple Street, Salt Lake City, Utah 84110, (801) 533-4145.

EPA Regional Office: U.S. Environmental Protection Agency, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221.

Written comments should be sent to: U.S. Environmental Protection Agency, Waste Management Branch (8AH-WM), 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221.

The Public Hearing will be held at: Salt Lake City Main Branch Library Auditorium, 209 E. 500 S., Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Dr. Henry C. Schroeder, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, Federal Register (45 FR 33063) the Environmental Protection

Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment for the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479). As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for Phase I interim authorization are to be made available for public inspection and comment. In addition, a Public Hearing is to be held on the submittal, unless significant public interest is not expressed.

Dated: October 10, 1980.

James Thompson,

Acting Regional Administrator.

[FR Doc. 80-32614 Filed 10-16-80; 8:45 am]

BILLING CODE 6560-30-M

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40 CFR Part 123

[SW8 FRL 1638-8]

North Dakota Application for Interim Authorization, Phase I Hazardous Waste Management Program; Public Hearing

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the North Dakota application for Phase I, interim authorization, inviting public comment, and giving notice of a Public Hearing to be held on the application.

DATE: Comments on the North Dakota interim authorization application must be received by November 14, 1980.

Public Hearing: EPA will conduct a Public Hearing on the North Dakota interim authorization application at 9:30 a.m. on November 14, 1980. EPA reserves the right to cancel the Public Hearing if significant public interest in a hearing is not expressed. The State of North Dakota will participate in any Public Hearing held by EPA on this subject.

ADDRESSES: Copies of the North Dakota interim authorization application are available at the following addresses for inspection and copying by the public:

North Dakota Department of Health, Division of Environmental Waste Management and Research, Missouri Office Building, 1200 Missouri Avenue, Bismarck, North Dakota

EPA Regional Office:

U.S. Environmental Protection Agency, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221

North Dakota State Library, State Capitol Building, Bismarck, North Dakota

North Dakota State Historical Society, State Capitol Building, Bismarck, North Dakota

North Dakota State College Library, Fargo, North Dakota

University of North Dakota Library, Grand Forks, North Dakota

Minot State College Library, Minot, North Dakota

Dickenson State College Library, Dickensen, North Dakota

Written comments should be sent to:

U.S. Environmental Protection Agency, Waste Management Branch (8AH-WM), 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221, c/o Rolland Lech

The Public Hearing will be held at:

Blue Room, State Capitol Building, Bismarck, North Dakota

FOR FURTHER INFORMATION CONTACT: Rolland Lech, EPA Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2221.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is subtantially equivalent to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, (45 FR 33479). As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for Phase I interim authorization are to be made available for public inspection and comment. In addition, a Public Hearing is to be held on the submittal, unless significant public interest is not expressed.

Dated: October 10, 1980.

James S. Thompson,

Acting Regional Administrator.

[FR Doc. 80-32615 Filed 10-16-80; 8:45 am]

BILLING CODE 6560-30-M

Notices

Federal Register
Vol. 45, No. 203
Friday, October 17, 1980

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

AMAX, Inc. Proposed Molybdenum Mining and Milling Operation; Gunnison National Forest, Gunnison County; Revised Notice of Intent

A Notice of Intent to Prepare an Environmental Impact Statement for the Amax, Inc. Proposed Molybdenum Mining and Milling Operation was published in the **Federal Register**, Volume 44, No. 107, p. 31687, June 1, 1979.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in July 1981, and the Final Environmental Impact Statement is proposed for release in November 1981.

All other conditions of the original notice of intent remain the same.

Jimmy R. Wilkins,
Forest Supervisor.
October 6, 1980.
[FR Doc. 80-32422 Filed 10-16-80; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Dairyland Power Cooperative; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact which concludes that there is no need for REA to prepare an environmental impact statement in connection with a proposed loan guarantee by REA for Dairyland Power Cooperative (Dairyland), of La Crosse, Wisconsin. The proposed loan guarantee will assist Dairyland in constructing approximately 33.8 km (21 miles) of 69 kV transmission line and an associated 161-69 kV transmission substation.

The 69 kV transmission line will be built between Interstate Power Company's Dover distribution substation located in Olmsted County, Minnesota, and the proposed Wabasha 161–69 kV transmission substation located in Wabasha County, Minnesota. Dairyland has prepared a Borrower's Environmental Report (BER) concerning the proposed project. REA has reviewed the BER and determined that it represents an accurate assessment of the environmental impact of the project. REA has prepared an Environmental Assessment concerning the proposed project and its impacts.

Threatened and endangered species, important farmland, archaeological and historic sites, wetlands, flood plains and potential impacts of the project are adequately considered in the BER. REA's independent evaluation of the proposed project leads it to conclude that its proposed financial assistance for this project does not represent a major Federal action that will significantly affect the quality of the human environment.

Based on this independent evaluation and a review of Dairyland's BER, a Finding of No Significant Impact was reached in accordance with Section IV.B and IV.D.1 of REA Bulletin 20–21:320–21, Part I.

Various alternatives to the proposed transmission line and substation were reviewed by Dairyland and REA. The alternatives included no action, energy conservation, use of existing facilities and alternative corridors. After reviewing these alternatives, REA determined that the proposed 69 kV transmission line and associated substation is the best alternative for providing power to existing and future Dairyland loads within the area.

Copies of REA's Finding of No Significant Impact and Dairyland's BER may be reviewed in the office of the Director, Power Supply Division, Room 5829, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250 and at the office of the cooperative, Dairyland Power Cooperative, 2615 East Avenue South, La Crosse, Wisconsin 54601.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 7th day of October.

Robert W. Feragen,
Administrator.
[FR Doc. 80-32026 Filed 10-16-80; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Wholesale Trade; Determination

In conformity with title 13, United States Code, sections 182, 224, and 225 and due Notice of Consideration having been published September 16, 1980, (45 FR 181 61344) I have determined that data covering year-end inventories and annual sales are needed to aid the efficient performance of essential Government functions, that the data have significant application to the needs of the public, the distributive trades and governmental agencies and that the data are not publicly available from nongovernmental or other governmental sources.

All respondents will be required to submit information covering their December 31, 1980, merchandise inventories, and their 1980 annual sales. Reports will be required only from a selected sample of merchant wholesale firms operating in the United States, with probability of selection based on size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to firms covered by the survey. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: October 13, 1980.

Vincent P. Barabba,
Director, Bureau of the Census.
[FR Doc. 80-32375 Filed 10-16-80; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Harvard University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a

scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review betwen 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00181. Applicant: Harvard University, 9 Oxford Street, Cambridge, MA 02138. Article: High Pressure Pulsed CO_2 Amplifier. Manufacturer: Lumonics Research Limited, Canada. Intended use or article: The article is intended to be used to amplify extremeley short pulses of infrared light. Typical pulse durations will be 50 picoseconds (50 psec) and less. the experimental programs in which the article will be used are: (1) Interaction of intense laser light with plasma, (2) miltiphoton infrared laser photochemistry of gas-phase molecules and (3) ultra-short CO_2 laser pulse generation.

Comments: No comments have been received with respect to this application.

Decision: Application denied.

Reasons: An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be usd, is being manufactured in the United States.

Discussion: In its response to Questions 8 and 9 the applicant states that is searched the literature for the needed broadband CO_2 Amplification System for its intended purposes. As a result of this search it found a domestically manufactured instrument that could meet the specifications outlined in the purchase order for the foreign article. This comestic system is the Model #120 manufactured by Systems, Science and Software (SSS) of Hayward, California. The National Bureau of Standards (NBS) advises in its memorandum of June 10, 1980 that the SSS system is scientifically equivalent to the foreign article for the applicant's intended purposes. We concur. It is noted that the applicant's reasons for purchasing the foreign article have nothing to do with ability to accomplish its intended program with the domestic system.

The applicant further states that (1) the major difference between the foreign and domestic system is that the Model #120 is an electron-beam controlled device, while the foreign article uses ultraviolet preionization with a considerable savings in cost and size and (2) each SSS Model #120 costs about twice as much as one Lumonics TE–280 unit, the basic unit of the foreign article. The Department's determination of scientific equivalency is based on a comparison of the pertinent specifications of the foreign article and those of comparable domestic instruments. As defined in § 301.2(n) of the regulations, the term "pertinent specifications" does not include cost of the instrument or apparatus.

The applicant further states that the major consideration in choosing the foreign article is that the domestic instrument is too large to be used in its laboratory. In this connection it is claimed that the use of the domestic system would require making a hole in the laboratory wall, moving several very heavy (1500 lbs) optical tables holding carefully aligned optical systems and rebuilding an interior shielded room. The applicant also expresses doubt that the laboratory has the floor space for the domestic units or that the floor can support the weight of such units.

According to § 301.2(n) the term "pertinent specification" does not extend to such characteristics as size unless the applicant can demonstrate that it is necessary for accomplishing the purposes for which the article is intended to be used. The Department notes that the applicant could accomplish all of its intended goals with the domestic system in a laboratory that is adequate for its use. Therefore the Department concludes that size in this case is not scientifically pertinent but rather a matter of cost or convenience which is not pertinent within the meaning of § 301.2(n).

Thus based on the foregoing, NBS advice, and our own review of the application, we find that the Model #102 CO_2 Amplification system is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 32349 Filed 10–16–80; 8:45 am]

BILLING CODE 3510–25–M

Mayo Foundation; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00131. Applicant: Mayo Foundation, 200 First Street Southwest, Rochester MN 55901. Article: Scanning Microdensitometer M85 and Accessories. Manufacturer: Vickers Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used for investigations to provide highly sensitive assays for the biologic activity of selected hormones including ACTH, TSH, and PHT. These microdensitometry assays will provide single sample in vitro capability to measure the hormones in these deficiency states.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a sensitivity of 5×10^{-15} grams per milliliter to corticotrophien. The Department of Health and Human Service advises in its memorandum dated May 22, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–32351 Filed 10–16–80; 8:45 am]

BILLING CODE 3510–25–M

University of Tennessee, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials

Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00373. Applicant: University of Tennessee, Biology Business Office, 125 Austin Peay, Knoxville, Tennessee 37916. Article: Electron Microscope, Model H-600 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is intended to be used for various studies of biological materials which include a variety of different cell types found throughout the body and in a variety of animals found in nature. These studies will include the following:

(1) Studies to obtain a more complete understanding of the role of plasma membrane flow in the variable responsiveness of granulosa lutein cells to gonadotropin stimulation.

(2) Determination of interrelations of the contractile proteins during contraction in order to understand the contraction of smooth muscles.

(3) Analyses of mechanisms affecting *Sertoli cell* differentiation and the interaction of germ cells and somatic cells of the *testis* in the control of *spermatogenesis.*

(4) Elucidation of the host-symbiont relationship in the amoeba-bacteria symbiosis and to formulate a general model for symbiont integration into host cells.

(5) Study to resolve the question of whether cystic fibrosis serum and serum from individuals heterozygous for the disease contains a factor(s) which induces ciliary dyskinesia in tracheal epithelium to account for respiratory impairment.

The article will also be used for demonstration purposes in the courses Cell Biology, Histology and Cytology, Veterinary Medicine Microbiology, Plant Cytology and Plant Toxonomy. Application received by Commissioner of Customs: July 11, 1980.

Docket No. 80–00375. Applicant: Texas A&M University, College Station, Texas 77843. Article: Fermentation Ethanol Distillery. Manufacturer: Coulter Copper & Brass, Ltd., Canada. Intended use of article: The article is intended to be used for studies of processes and feedstocks for production of ethanol and methods of utilization of ethanol for fuel use. The article will also be used to teach principles and processes of producing ethanol for fuel use in a small-scale ethanol plant. Application received by Commissioner of Customs: July 11, 1980.

Docket No. 80–00376. Applicant: University of Washington, Seattle, Washington 98195. Article: Scanning Microdensito-meter-Microscope, M85–0010B. Manufacturer: Vickers, United Kingdom. Intended use of article: The article is intended to be used to study cells, chromosomes, and electron micrographs of chromosomes. Experiments will be conducted primarily on polytene and polyploid cells and chromosomes of the Diptera *Drosophila.* Cells will be prepared cytologically from different tissues at different times of development. Drosophila that are mutant in cell processes and or chromosome structure will be examined. In addition, the article will be used in the courses: Biology 501 and Zoology 600 to teach advanced cytology and molecular cytogenetics to graduate students. Application received by Commissioner of Customs: July 15, 1980.

Docket No. 80–00377. Applicant: University of Kentucky, Room 2, Chem.-Phys. Bldg., Lexington, KY 40506. Article: Mass Spectrometer system, Model MN–ZAB–2F and Accessories. Manufacturer: VG Organics, Ltd., United Kingdom. Intended use of article: The article is intended to be used in conducting a variety of types of mass spectral analyses for the following types of components: boron-containing medicinals, platinum complex anticancer agents, potential maleic hydrazide and sterol carcinogenicity in or on tobacco, pyrrolo(1,4)benzo-diazepine antitumor antibiotics, naphthaquinone alcohols and their esters as antimicrobials, high molecular weight metal carbonyls and polynuclear metals carbonyls, and other compounds of biochemical, biological and pharmaceutical nature related to research activities being conducted. These analyses and the experiments to study Stevenson's Rule, inorganic complex decompositions, fragmentation processes in esters of vanadic, phosphoric, carboxylic and dicarboxylic acids, and non-equilibrium evaporations will be conducted by varying the mass spectrometer conditions, different inlet systems and ionization modes, a variety of chemical ionization reagent gases, and Mass-Analyzed Ion Kinetic Energy Spectroscopy (MIKES) studies as well as precise mass measurements under high resolution. The article will also be used for educational purposes in the courses: CHE 580 Topics in Chemistry, CHE 790 Research in Chemistry and CHE 395 Independent Work in Chemistry. In these respective courses the article will be used to instruct students in the principles, the instrumentation and the applications (and techniques) involved in mass spectrometry; to educate and train M.S. and Ph.D. students in depth in the area of mass spectrometry, and to become investigators in mass spectrometry; and to introduce to and educate B.S. students in the area of mass spectrometry, hopefully encouraging them toward goals in science. Application received by Commissioner of Customs: July 16, 1980.

Docket No. 80–00378. Applicant: Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street/16, Philadelphia, PA 19104. Article: Mass Spectrometer, MM70–70 with accessories. Manufacturer: VG-Organic Limited, United Kingdom. Intended use of article: The article is intended to be used for research convering the full range of synthetic and mechanistic organic, bio-organic and organometallic chemistry. This research will include:

(1) Extensive programs directed at the synthesis and/or isolation of novel natural products having important physiological properties,

(2) Development of new synthetic methods, employing a wide range of ground, excited state and organometallic chemistry,

(3) Development of new methods for the synthesis of transition metal cluster compounds, many of which may have catalytic properties of novel organic and inorganic polymer materials capable of conducting electricity,

(4) The study of the interactions among molecules present in neuromembranes in order to learn more about the chemistry and dynamics of neurotransmission, and

(5) Use of radioactive photolabeling derivatives of antibiotics as photoaffinity label probes to explore the structure and function of ribosomes.

Application received by Commissioner of Customs: July 16, 1980.

Docket No. 80–00379. Applicant: Carnegie-Mellon University, Department of Chemistry, 4400 Fifth Avenue,

Pittsburgh PA 15213. Article: NMR Spectrometer System, Model WN–300 and Accessories. Manufacturer: Bruker, West Germany. Intended use of article: The article is intended to be used for nmr spectroscopy in the following research projects:

(1) Solution structure of siderophores.

(2) Primary isotope effects in deuterium nmr spectroscopy.

(3) Synthesis of mechanism in the area of natural products.

(4) Biomembrane phase transitions and lipid mobility.

(5) DNA polymerase I of *E. coli.*

(6) Characterization of synthetic retinals and artificial visual pigments using high resolution ^{1}H and ^{13}C nmr spectroscopy.

(7) Investigation of synthetic macromolecules.

(8) Characterization of protein modification reagents.

(9) Structure of condensed phases and solutions.

(10) Photo-oxidation catalysis.

(11) Silicon-29 nuclear magnetic resonance studies of organosilicon-transition metal complexes.

Application received by Commissioner of Customs: July 17, 1980.

Docket No. 80–00380. Applicant: Bucknell University, Lewisburg, PA 17837. Article: Microthermometry Apparatus. Manufacturer: Chaixmeca Ltd., France. Intended use of article: The article is intended to be used for the following educational purposes:

(1) To teach geology majors how to operate in the field and laboratory as structural geologists in the course Structural Geology (Geology 201),

(2) To learn minerals and the environmental conditions under which they have formed in the course Crystallography and Mineralogy (Geology 217) and,

(3) To teach students how to do independent research on a topic of their choice in the courses Geology 329–330 and (Geology 319–320).

Application received by Commissioner of Customs: July 17, 1980.

Docket No. 80–00381. Applicant: University of Georgia, Dept. of Anatomy and Radiology, College of Vet. Med., Athens, Georgia 30602. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the ultrastructural characteristics of tissues, viruses and cellular inclusions associated with various diseases. Experiments to be conducted will involve obtaining matrial from a variety of animal diseases and correlating the ultrastructural appearance of the tissue with aspects of the disease and with that seen under experimental conditions such as tissue culture. The article will be used to instruct residents and graduate students within the College of Veterinary Medicine. Application received by Commissioner of Customs: July 17, 1980.

Docket No. 80–00382. Applicant: National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following studies:

(1) Elemental analysis of fine particulates in human biopsy tissue, human autopsy tissue and tissues from experimentally exposed laboratory animals.

(2) Monitoring and surveillance of airborne fine particulate from areas of potential human health hazard.

(3) Examination of animal and human tissues for particulate induced ultrastructural alteration and/or pathology.

Application received by Commissioner of Customs: July 17, 1980.

Docket No. 80–00383. Applicant: State University of New York at Stony Brook, Nichols Road, Stony Brook, NY 11794. Article: Particle Electrophoresis Apparatus. Manufacturer: Rank Bros., United Kingdom. Intended use of article: The article is intended to be used for measurement of the electrophoretic mobility of phospholipid bilayer membrane vesicles. The effect of various additives; proteins, divalent cations, local anesthetics, fluorescent probes, etc.; on the mobility will be measured. The relationship between the electrophoretic mobility, the zeta potential will be determined. Measurement of latex particles will be done for collaborative study with Dept. of Pathology faculty members interested in the surface properties of artificial joints. Educational uses will include instruction of graduate students in the laboratory of the Dept. of Physiology and Biophysics and Dept. of Physics. Application received by Commissioner of Customs: July 17, 1980.

Docket No. 80–00384. Applicant: Sandia National Laboratories, P.O. Box 5800, Albuquerque, New Mexico 87185. Article: Cinetheodolite Test Equipment. Manufacturer: Contraves A.G., Switzerland. Intended use of article: The article is intended to be used to maintain and calibrate the electronic circuitry in the new Contraves Model F cinetheodolites at the Tonopah Test Range. The equipment simulates the interfaces in the actual mount and therefore provides the capability to test and repair cinetheodolite subsystems without dedicating a full cinetheodolite to this function. Application received by Commissioner of Customs: July 17, 1980.

Docket No. 80–00385. Applicant: The American University, Mass. & Nebraska Aves., NW., Washington, D.C. 20016. Article: MPC 200 Proportional Counter. Manufacturer: UKAEA, AERE, United Kingdom. Intended use of article: The article is intended to be used in the study of crystalline and amorphous rare-earth-iron alloys. Mossbauer Effect experiments will be conducted to improve the performance of amorphous magnetic materials—used in magnetostrictive transducers—by studying their response to heat treatment. Application received by Commissioner of Customs: July 18, 1980.

Docket No. 80–00386. Applicant: University of Tennessee, Department of Audiology & Speech Pathology, Knoxville, Tennessee 37916. Article: Suvag Lingua Auditory Training Unit. Manufacturer: S.E.D.I., France. Intended use of article: The article is intended to be used for correcting auditory perceptual errors with filters thus improving the listening skills of people with communication problems. The article will also be used to teach correction of perceptual errors in academic courses and practicum. Application received by Commissioner of Customs: July 21, 1980.

Docket No. 80–00388. National Aeronautics & Space Administration, Lewis Research Center, 2100 Brookpark Road, Cleveland, Ohio 44135. Article: Setapoint Detector. Manufacturer: Stanhope—Seta Limited, United Kingdom. Intended use of article: The article is intended to be used for evaluation purposes wherein the article will be compared with the ASTM D2386 Standard Test Method for Freezing Point of Aviation Fuels. The article will also be used for in-house research in the evaluation of freezing point, low temperature pumpability, cold filter plugging, cloud point, and wax appearance of aviation fuels. Application received by Commissioner of Customs: July 22, 1980.

Docket No. 80–00389. Applicant: Veterans Administration Medical Center, 150 Muir Road, Martinez, CA 94553. Article: Electron Microscope, Model EM 109R. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for conducting the following research projects:

A. Investigations to more fully define the nature of Mallory bodies, their significance in alteration of the

biological function and their role in carcinogenesis.

B. Investigations to define the origin and nature of the collagen fibres in the disease states with hepatic fibrosis, e.g., alcoholic injury.

C. Observations by electron microscopy of the globules by dietary alterations and their relationship to various organelles.

D. Studies of the role of lipids in the structure and function of erythrocytes.

E. Characterization of human alveolar macrophage and whole lung cell cytochrome P-450 dependent microoxygenases.

F. Determination of the role of internal injury in smooth muscle hyperplastic occlusion of prosthetic graft.

G. Studies of the effects of cytotoxic agents on the rat's small intestine.

H. Studies of the effects of altered oxygen tension on endothelial cell function.

I. Studies of human biopsy and specimens requiring electron microscopy for diagnosis of kidney, liver, lymph node, bone marrow, skin, buffy coats and tumors.

The article will also be used to familiarize pathology residents with the techniques and application of electron microscopy and to apply their skills in future diagnosis and research. Application received by Commissioner of Customs: July 22, 1980.

Docket No. 80-00390. Applicant: Department of Health and Human Services, Food and Drug Administration, Division of Veterinary Medical Research, Agricultural Research Center—East, Building 382A, Beltsville, MD 20705. Article: Scanning Attachment and Accessories for H-5001 TEM. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for ultrastructural studies of cellular organelles and the changes found to be associated with drug treatment. These will include virus particles, changes in cellular and subcellular ion concentration, morphology changes on tissue surfaces, variations of concentrations of elements in certain cells and organelles and ultrastructure changes in animal tissue bacteria or virus particles. Application received by Commissioner of Customs: July 22, 1980.

Docket No. 80-00392. Applicant: Pepperdine University, Seaver College, Natural Science Division, Malibu, California 90265. Article: Carbon Dioxide Gas Analyser, Type 225, Mark II and Gas Handling System, Type W161, Mark II. Manufacturer: Analytical Development Company, Limited, United Kingdom. Intended use of article: The article is intended to be used for the investigation of the gas exchange rates of CO_2 and water vapor in bean plants under controlled environmental conditions. The article will also be used for educational purposes in the courses: Biology 113, "Biology of Plants" and Biology 590 "Research in Biology." Application received by Commissioner of Customs: July 25, 1980.

Docket No. 80-00393. Applicant: University of North Carolina at Chapel Hill, Dept. of Physiology, 186 Medical Research Wing 20GH. Article: Electron Microscopy EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the following materials and phenomena:

a. Tissue from mammalian central nervous system in which single neurons have been labelled for recognition in electron microscopy. Pathways and synaptic connections of single neuron processes.

b. Biochemically prepared microtubules from mammalian brain. Mechanisms of assembly, structure and function of microtubule and associated proteins.

c. Postsynaptic membranes in situ (electric tissue and mammalian muscle) and after biochemical isolation. The structure of the membrane, relative to mechanisms by which it is formed and organized by the cell.

The article will also be used for educational purposes which involve training graduate students and postdoctoral fellows to use the instrument up to the limits of its capabilities in their research efforts which are directed toward the projects described. Application received by Commissioner of Customs: July 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-32347 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

University of Notre Dame; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00211. Applicant: University of Notre Dame, Radiation Laboratory, Notre Dame, Indiana 46556. Article: Pulse Nanosecond Fluorometer System. Manufacturer: Photochemical Research Associates, Canada. Intended use of article: The article is intended to be used primarily in the study of fluorescence lifetime, rotation, diffusion, electron transfer and chemical reaction rates and other related phenomena. The nanosecond excited state kinetics of cyclic azo compounds, cyclic allenones, methylene methones, protein transfer involving delocalized negative ions, and quantum chain reactions will be investigated. In addition, the kinetics of cell and biological membrane transportation will be investigated using fluorescent probes. The article will also be used in graduate courses to train students in fast kinetics and fluorescence lifetimes.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides time resolved spectroscopy, multiexponential decay curve analytical capabilities, and a time resolution capability of better than 50 nanoseconds. The National Bureau of Standards advises in its memorandum dated July 9, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-32350 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

University of Texas; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00130. Applicant: The University of Texas Health Science Center, Biochemistry Department, 7703 Floyd Curl Drive, San Antonio, TX 78284. Article: Circular Dichroism Spectrophotometer, J–500C. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended Use of article: The article is intended to be used for studies of proteins and mucleic acids. Experiments will be conducted to obtain a circular dichroism spectra of the molecules and molecular complexes at various temperatures. The objectives of these experiments are: (1) To develop quantitative methods of assessing protein conformation changes; (2) To study subtle changes of the environment surrounding protein chromophores; and (3) To compare predicted and experimental structures.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides circular dichroism spectra and rapid switching (50,000 times/second) between right and left polarized light. The Department of Health and Human Services advises in its memorandum dated May 7, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-32348 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin System; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 79–00386. Applicant: University of Wisconsin System, A. W. Peterson Office Bldg., 750 University Avenue, Madison, WI 53706. Article: Isotope-Ratio-Mass Spectrometer, Model MAT 250 and Accessories. Manufacturer: Varian MAT GmbH, West Germany. Intended use of article: The article is intended to be used for analysis of ^{15}N, ^{2}H, ^{13}C, ^{18}O and ^{34}S; in investigations of natural isotopic abundance in geologic and natural material, for use of ^{15}N-depleted nitrogen compounds, and for greater accuracy in low enrichment ^{15}N studies. It will also be used in investigations of N_2 fixation, nitrogen transformations in soils and waters, biochemistry of inorganic nitrogen assimilation by plants, mechanisms of oxidative phosphorylation, evaluation of the fate of nitrite in meat products, and characterization of the origin of quartz by $^{16}O/^{18}O$ ratios.

Comments: No comments have been received with respect to this application. Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 18, 1979). Reasons: In its justification for duty-free entry of the foreign article (Question 8.c. of the application) the applicant claims, among other things, that is was a group decision to buy a "proven instrument rather than an unknown design" and that "deliverability" and "reliability" entered into the decision to buy the foreign article. The applicant alleged that "[i]f Nuclide performed as claimed, then it would accomplish the relevant analyses as well as would the Varian MAT. At issue is the actual performance, which all evidence indicates, is below that stated by the manufacturer." To support its claim the applicant cited "important findings" of "several Nuclide users," it had contacted.

The application was reviewed by the Department's scientific consultants at the National Bureau of Standards (NBS) who provided their advice to the Department in a memorandum dated December 28, 1979. There follows a detailed discussion of the conclusions of the NBS consultants and of the various claims of the applicant.

1. *Mass Spectrometer Capable of Providing Analysis of ^{15}N, ^{2}H, ^{13}C, ^{18}O and ^{34}S.* NBS found that the foreign article satisfied this capability. For purposes of evaluation of scientific equivalency, NBS compared the foreign article with instruments from the Nuclide Corporation. With respect to the Nuclide instruments, NBS advised as follows: "These instruments, Model 6–60–RMS or 12–90–RMS, are precision mass spectrometers capable of providing analysis of ^{15}N, ^{2}H, ^{13}C, ^{18}O and ^{34}S with an internal precision equivalent to that of the foreign article."

The Department notes that Nuclide responded to the applicant's request for quote with a variety of options to the 6-60 RMS and the 12–90 RMS which met all the specfications of the Varian MAT 250 and that in response to Question 8.c.(3)(b) the applicant stated that, if Nuclide performed as claimed, it would accomplish the relevant analyses as well as would the Varian MAT. We find that either Nuclide instrument is capable of performing the required analyses.

2. *Proven Instrument.* The applicant claimed the Varian MAT 250 and Micromass 602D mass spectrometers had actually been used by various members of the multi-user group that would be using the instrument and that the group had decided to "go for a proven instrument rather than a unknown design." According to the applicant, the "critical point" is that the domestic instruments quoted by Nuclide are "custom-built" with accessories added to the basic 6–60 to meet performance specifications and that the "actual performance" of the Nuclide instruments "could not be verified by hands-on experience." NBS made no finding on the applicant's statement of a "proven instrument" because this was a "subjective" consideration. NBS noted that in the applicant's proposal to the National Science Foundation, enclosed

with the duty-free entry request, the Chemistry Department at the institution was shown to have a Nuclide isotope ratio mass spectrometer, which suggests the "proven capability of a domestically manufactured item has been established at his own facility * * *" The scientific consultants at NBS also disagreed with the applicant's claim that the instrument offered by Nuclide was "custom built." citing the fact that their examination of the Nuclide bid "shows it to be for their standard 6 or 12 inch instrument with many standard optional features offered." We agree that the combination of a basic instrument with standard optional features is not a "custom-built" instrument in the sense that it has not been produced before, or constitutes an "unknown design."

NBS further advised that the Nuclide instruments "have been available in various configurations over a period of years, they are of proven design and the fact that many have been in use for over 20 years attests to their reliability." We agree.

The Department has historically treated mass spectrometers as produced-on-order instuments. Secion 301.2(i) of the Department's regulations defines produced-on-order instruments as those which a manufacturer lists in a current catalog and "is able and willing to produce and have available without unreasonable delay to the applicant." Nuclide responded positively to the applicant's sealed bid on No. D9–2483, without any exceptions. While the ability to observe and run samples on an instrument before it is purchased may be a legitimate consideration for an institution desiring to purchase a scientific instrument, this is not a valid basis for duty-free entry of a produced-on-order or customs-made instrument under the Department's regulations. Also, while the opinion or personal preferences of the potential users of the instruments, as well as those of some of their colleagues, may constitute sufficient grounds to buy a particular instrument, they are not adequate basis for justification of duty-free treatment under the Department's regulations. The basis for the Department's treatment of custom-made or produced-on-order instruments is explained in the report of the House Ways and Means Committee that accompanied Pub. L. 89–651, which reads in pertinent part as follows:

> It is considered that there would be justification for a finding that an instrument or apparatus is being manufactured in the United states if a manufacturer in the United States has in stock, or lists in a current catalog and offers for sale, such an instrument or apparatus which it has produced domestically. Moreover, *in other instances* (emphasis added), such a finding would be justified if there is satisfactory evidence that a manufacturer is willing and able to produce and have such a domestic article available promptly so that it may be obtained by the applicant without unreasonable delay, taking into account the normal commercial practices applicable to the production and distribution of instruments or apparatus of the same general type. (H. Rept. No. 1779, 89th Cong., 2d Sess., 19 (1966)).

It is clear from this language that the Congress foresaw circumstances in which the administrators of the law would find domestic instruments as "being manufactured in the United States" even though the instruments were not "proven" and even though "field testing" had not been conducted on the specific instrument being offered for sale by the U.S. manufacturer. In any event, we find that the Nuclide instruments are of proven design.

3. *Deliverability.* The regulations (Section 301.6(b)) require an applicant wishing to justify duty-free entry on the basis of excessive delivery time to state how the difference in quoted delivery times "will seriously impair the purposes described in response to Question 7."

Facts relevant to this Department's finding in this regard are as follows:

1. Both Nuclide and the foreign manufacturer quoted a delivery time of 180 days.

2. While alleging that Nuclide Corp.'s actual delivery of some orders has "been in the order of 24 months or greater," the applicant failed to show how its specific research purposes would be seriously impaired by such delays.

3. The Nuclide instrument is a basic instrument with standard options known by the Department and its scientific consultants at the National Bureau of Standards to be well within the production capability of the domestic firm.

Either of the first two of these facts, taken by itself, precludes a finding of domestic nonavailability on grounds of excessive delivery time. The remaining fact illustrates the rationale underlying the pertinent provision of the regulations: Manufacturers, both domestic and foreign, may not always fulfill contractual obligations to deliver orders within quoted times, and such failures may create legal grounds for redress by purchasers and, if repeated sufficiently to undermine the manufacturers reputation as a reliable supplier, cause the rejection of its bids. The consistent administration of a statute, however, cannot rest on various purchases' perceptions of a supplier's reliability at any given time. The cited regulatory provison rests, instead, on the fact of the contractual obligation incurred by the quote.

4. *Reliability and Service.* Section 301.2(n) of the regulations defines "pertinent specifications" as those "structural, operational performance, and other characteristics specified for the instrument * * * that are necessary for the accomplishment of the purposes described by the applicant," excluding such characteristics as "size, *durability,* complexity, ease of operation, *ease of maintenance* and versatility, unless the applicnt can demonstrate that they are necessary for accomplishing the purposes for which the article is intended to be used" (emphasis added). Nor do pertinent specifications include "cost differences between the domestic and foreign instrument, apparatus or accessory."

The applicant claims that the reliability of the domestic instrument "entered into our decision" and cites the experience of three users of Nuclide instuments. One user's experience was with the "smaller 3–60 instrument"; no research purposes are shown. The second user's experience specified neither the instrument nor the research purposes. The third user employed the 6–60 for analysis of ^{15}N and ^{14}N, one of which ^{15}N is included among the applicant's intended analysis. This user indicated that Nuclide's delivery and service were satisfactory, but complained about the resolution capabilities of a 6 inch radius instrument. Making a standard curve overcame the resolution problem. As previously noted, however, we find that both the Nuclide 6–60 and the Nuclide 12–90 provide analysis of ^{15}N, among others, with an "internal precision equivalent to that of the foreign article.

The Department concludes that these citations, which the applicant describes as evidence of Nuclide's "apparent" poor performance, do not satify the regulatory requirement to *demonstrate* the inability of the domestic instrument to accomplish the stated research purposes. The proponderance of the evidence on the record, in fact, points to the opposite conclusion. Moreover, the Department regards reliability and service considerations as essentially cost factors which are precluded from being taken into account in its decision.

Conclusion: The NBS advises, in summary, that for the research purposes stated by the applicant, the Nuclide Corporation instruments are scientifically equivalent to the foreign article." Based on this advice and our own review of the record, as set forth above, we find that the Nuclide Models

6–60 and 12–90 ratio mass spectrometers were of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-32346 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

Portable Electric Nibblers From Switzerland; Initiation of Antidumping Investigation

AGENCY: United States Department of Commerce.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that, on the basis of a petition filed in proper form, the Department of Commerce is initiating an antidumping investigation to determine whether portable electric nibblers from Switzerland are being, or are likely to be, sold at less than fair value. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices of such or similar merchandise sold for consumption in the home market, or to countries other than the United States, or less than the constructed value. The Department of Commerce is notifying the International Trade Commission of this action so that the Commission may make a determination no later than November 20, 1980, whether there is a reasonable indication of material injury by reason of imports of this merchandise.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John Davies, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C., 20230 (202–377–1766).

SUPPLEMENTARY INFORMATION: On October 6, 1980, the Department of Commerce received a petition that complies with the requirements of §§ 353.36 and 353.37 of the Commerce Regulations (19 CFR 353.36 and 353.37). The petition was filed by the Widder Corporation, Naugatuck, Connecticut, on behalf of the United States industry producing portable electric nibblers. The petition alleges that portable electric nibblers from Switzerland are being, or are likely to be, sold at les than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (93 Stat. 162, 19 U.S.C. 1673) ("the Act") and that these sales cause and/or threaten to cause material injury in the U.S. industry. The merchandise covered by this investigation is portable, electric nibblers, provided for in item number 683.2028, Tariff Schedules of the United States, Annotated, hand-directed or hand-controlled tools with self-contained electric motors.

The petition includes sufficient evidence supporting both the allegations of sales at less than fair value on the basis of comparisons between prices in the home market and in the United States market, and of material injury.

The petition alleges actual or potential decline in output, sales, market share, profits, and employment on the part of the United States industry.

In accordance with section 732(c) of the Act (93 Stat. 162, 19 U.S.C. 1673a(c)), I hereby determine that the Department will initiate an investigation to determine whether imports of portable electric nibblers from Switzerland are being, or are likely to be, sold at less than fair value.

Pursuant to section 732(d) of the Act (93 Stat. 163, 19 U.S.C. 1673a(d)) the Department is notifying the U.S. International Trade Commission (ITC) and providing it with a copy of the information on which I based this determination to initiate an investigation. The International Trade Administration will make available to the ITC all nonprivileged and nonconfidential information in its files. The International Trade Administration will make available to the ITC all privileged and confidential information in the files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Pursuant to section 733(a) of the Act (93 Stat. 163, 19 U.S.C. 1673b(a)), the ITC will determine, no later than November 20, 1980, whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of portable electric nibblers from Switzerland. If that determination is negative, this investigation will be terminated, and the International trade Administration will publish no further notice. Otherwise, the investigation will proceed to its conclusion.

Section 733(b) of the Act (93 Stat. 163, 19 U.S.C. 1673b(b)) requires that, normally no later than 160 days after the date on which the petition was filed, the International Trade Administration make a preliminary determination whether there is a reasonable basis to believe or suspect that merchandise which is the subject of this investigation is being, or likely to be, sold at less than fair value. Therefore, unless the investigation is terminated or extended, the International Trade Administration will make a preliminary determination not later than March 16, 1981.

This notice is published pursuant to section 732 of the Act (93 Stat. 162, 19 U.S.C. 1673a and 353.37(b) of the Commerce Regulations (19 CFR 353.37(b), 45 FR 8199).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 32379 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

Certain Handbags From the Republic of Korea; Preliminary Results of Administrative Review of Countervailing Duty Order and of Tentative Determination To Revoke

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order and of Tentative Determination To Revoke.

SUMMARY: This notice is to advise the public that, as a result of an administrative review of the countervailing duty order on certain handbags from the Republic of Korea, the Department of Commerce has tentatively determined to revoke such order on the grounds that net subsidies have been *de minimis* for at least two years. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Josephine Russo, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C., 20230 (202–377–4023).

SUPPLEMENTARY INFORMATION: A notice of "Final Contervailing Duty Determination," T.D. 77–152, was published in the **Federal Register** of June 3, 1977 (42 FR 28532). The notice stated that the Treasury Department had determined that exports of certain handbags from the Republic of Korea were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)("the Act"). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

The term "handbags" as used throughout this proceeding covers

pocketbooks, purses, shoulder bags, clutch bags, and all similar articles by whatever name known, customarily carried by women or girls and classifiable under item 706.06, 706.08, 706.20, 706.22, 707.23, 706.24, 706.30, or 706.60, Tariff Schedules of the United States (TSUS). Luggage, flat goods or other articles classifiable under these TSUS items and handbags under item 706.40 are not included.

The countervailable programs under the Final Determination are: (1) preferential short-term export financing, (2) tax benefits resulting from the inclusion in loss accounts of sales and entertainment expenses incurred in connection with development of overseas markets, (3) tax benefits resulting from the inclusion in loss accounts of reserve funds for losses accuring from overseas activities, and (4) accelerated depreciation of machinery and equipment utilized for export production. The Treasury Department found that 28 manufacturers or exporters of handbags (as identified in the **Federal Register** notice of June 3, 1977) received bounties or grants ranging from 0.48 percent to 0.64 percent *ad valorem*. All other handbag manufacturers/exporters received weighted average benefits of 0.24 percent, considered by Treasury to be *de minimis*. Effective June 3, 1977, countervailing duties were collected on merchandise exported by those 28 companies receiving more than *de minimis* benefits.

On November 19, 1979, the Treasury Department received a request for revocation of the order from the Government of the Republic of Korea. In its submission, the Republic of Korea alleged that only six companies exported to the United States after January 1978 and only five did so after January 1979. Further, for more than a two year period (through September 1979), benefits received by the 5 companies still shipping were below 0.3 percent. The Government of Korea argued that this level was *de minimis*.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150)("the TAA") went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce ("the Department"). On April 2, 1980, liquidation was suspended on all shipments of handbags from Korea entered, or withdrawn from warehouse, for consumption retroactive to January 1, 1980. Subsequently, the Department conducted an administrative review of the information submitted by the Korean Government for the 28 handbag exporters. We received supplemental information for the last 3 months of 1979. We confirmed that the benefits received by the 5 exporting firms were no more than 0.29 percent *al valorem* from January 1977 through December 1979.

We verified the information through examination of Korean Government laws and documents; company books and records; and consultation with economic officials of the United States consultate in the Republic of Korea.

As a result of our administrative review, we preliminarily conclude that the imported merchandise has not benefitted from more than *de minimis* net subsidies for at least the two-year period specified in § 355.42(b), Commerce Regulations. Furthermore, as required by § 355.42(d), Commerce Regulations, the manufacturers and exporters have agreed in writing to an immediate suspension of liquidation and, if appropriate, reinstatement of the order if circumstances develop which indicate that the imported merchandise benefits from a net subsidy.

Therefore, the Department has tentatively determined to revoke the countervailing duty order concerning certain handbags from Korea. If this order is revoked, it shall apply with respect to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after (date of publication). Additionally, entries from January 1, 1980 to (date of publication), assuming no change in the *de minimis* rate, will be liquidated without regard to countervailing duties. The suspension of liquidation previously ordered will continue until further notice. Since we have preliminarily determined that the imported merchandise has not benefitted from more than *de minimis* net subsidies, no deposit of estimated countervailing duties will be required as of October 17, 1980.

Interested parties may submit written comments by November 17, 1980 and may request disclosure and/or a hearing by November 3, 1980.

The Department will publish a notice of final results of administrative review after analysis of issues raised in written comments or at a hearing.

This administrative review, tentative determination to revoke, and notice publication are in accordance with section 751(a)(1), (c) of the Act (93 Stat. 175–76, 19 U.S.C. 1675(a)(1), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42, 45 FR 4947–48).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

October 10, 1980.

[FR Doc. 80-32381 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Federal Information Processing Standards 60, 61, 62, 63 Technical Verification Guidance

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), Secretary of Commerce is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098–10101 announcing that the Secretary of Commerce had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60, FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the **Federal Register** (44 FR 50078–50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079–50080), August 31, 1979 (44 FR 51294) and December 3, 1979 (44 FR 69317).

On December 11, 1979, notice was given in the **Federal Register** (44 FR 71444–71445) announcing the verification procedures for FIPS PUBS 60, 61, 62, and 63.

On June 25, 1980, notice was given in the **Federal Register** (45 FR 42783–42784) of the interim revision of FIPS PUBS 60–63 as follows:

The Director of the National Bureau of Standards shall, through publication of notices in the **Federal Register**, specify the verification procedures and techniques to be employed and shall conduct or arrange to have conducted this required verification. The Director shall provide, upon request or when he otherwise determines it to be necessary and appropriate, guidance as to whether specific technical interface implementation approaches will meet the verification requirement. Such guidance shall

be published in summary form through notices in the **Federal Register**, specifying the manner in which persons may obtain copies of the full guidance provided.

This is the second notice providing specific guidance concerning technical interface implementation approaches. The first such notice was published in the **Federal Register** of August 13, 1980 (45 FR 53856–53857).

FIPS 60, 61, 62, and 63 are intended to achieve full plug-to-plug interchangeability of peripheral components. This general intent is the basis for this guidance.

2.1 Paragraph 2.2.2.1 of FIPS PUB 60 requires that all control unit-generated interface signals be down within 1.5 microseconds after the fall of 'operational out' at the control unit. Will infrequent exceptions be allowed for control unit error recovery/logging purposes?

Control units which, in exceptional cases, as a result of the detection of fault or error conditions, do freeze inbound lines for a period exceeding 1.5 microseconds, while clearing or logging error states, may be verified relative to FIPS PUB 60 provided:

(a) Such delays do not occur in the normal error free operation of the subsystem, and

(b) The total delay to drop inbound lines does not then exceed 100 microseconds.

2.2 Paragraph 2.2.2.3, subparagraph 2, of FIPS PUB 60 requires that 'operational in' must drop within 6 microseconds of a disconnect indication. Will infrequent exceptions be allowed for control unit error recovery/logging purposes?

Control units which, in exceptional cases, as a result of the detection of fault or error conditions, hold 'operational in' for more than 6 microseconds after a disconnect, while clearing or logging error states, may be verified relative to FIPS PUB 60 provided:

(a) Such delays do not occur in the normal error free operation of the subsystem, and

(b) The total delay until 'operational in' drops never exceeds 100 microseconds.

2.3 Paragraphs 2.2.2.4 and 2.8.2 of FIPS PUB 60 require that a control unit not requiring selection must propagate 'select out' within 1.8 microseconds. Will control units with multichannel or string switching capabilities, which usually meet this requirement but infrequently exceed 1.8 microseconds be allowed?

Control units which implement device sharing and which, in exceptional cases, allow more than 1.8 microseconds to propagate 'select out' may be verified relative to FIPS 60 provided:

(a) Conditions or states which require more than 1.8 microseconds for the propagation of 'select out' occur infrequently, and

(b) This applies only to selector channel or block multiplexor operation, and

(c) The worst case propagation time for 'select out' never exceeds one millisecond.

2.4 Paragraph 2.8.1 of FIPS PUB 60 requires that no signal sequence exceed 32 microseconds because of the control unit. Will units which sometimes exceed 32 microseconds be allowed?

This requirement is of greatest importance with byte multiplex channels, because of the frequent selection sequences typically performed during byte multiplexor operation. When subsystems operate over selector or block multiplexor channels, typically transfer long blocks of data for most data accesses, and typically have (as do magnetic disk and tape subsystems) relatively long mechanical latencies, this requirement is much less significant. Therefore, subsystems which sometimes require more than 32 microseconds for one signal sequence may be verified relative to FIPS PUB 60 provided:

(a) They ordinarily operate over selector or block mutiplexor channels and,

(b) No signal sequence exceeds one millisecond due to the control unit.

2.5 Paragraph 1.6 of FIPS PUB 62 states that the high order 4 bits of an address specify the control unit and the low order 4 bits specify a device address. May other interpretations of the address space be allowed?

It is important that each control unit recognizes the full address of every device assigned to it, and that no two control units on the same channel respond to the same address. Keeping this in mind, other breakdowns of the 8 bit address space may be verified, provided the high order bits identify a control unit and the low order bits identify a device attached to that control unit. It would, therefore, be acceptable, for example to have a subsystem with a 3 bit control unit address concatenated to a 5 bit device address, if the control unit could handle more than 16 devices but less than 33. It would also be acceptable to have a 5 bit control unit address and a 3 bit device address for a control unit which handles 1 to 8 devices.

Because it is possible to respond fully to the foregoing questions in such a brief fashion, the National Bureau of Standards has decided not to avail itself of the opportunity to summarize the guidance provided for in the interim revision of FIPS PUBS 60–63. The guidance provided in response to questions 2.1 through 2.5 is, therefore, considered complete. Requests for additional FIPS 60–63 verification guidance should be addressed to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: FIPS 60–63 Verification Guidance.

Dated: October 10, 1980.

Raymond G. Kammer,

Acting Director.

[FR Doc. 80-32343 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-13-M

Magnetic Tape Labels and File Structure for Information Interchange Issuance of Federal Information Processing Standard

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. On October 10, 1979, notice was published in the **Federal Register** (44 FR 58535) that a standard for Magnetic Tape Labels and File Structure for Information Interchange was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 79. The provisions of the standard are effective October 17, 1981.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The objective of this standard is to reduce the difficulty of interchange of information recorded on 9-track magnetic tapes between different users and different computing systems. This standard specifies the format, content, and arrangement of magnetically recorded labels that identify and structure files and that specify the format and arrangement of the blocks that contain the records that constitute a file.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. With certain qualifications noted in the announcement portion, this FIPS represents the adoption of American National Standard X3.27–1978, Magnetic Tape Labels and File Structure for Information Interchange.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Joseph C. Collica, Application Systems Division, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3491.

Dated: October 10, 1980.

Raymond G. Kammer,

Acting Director.

Federal Information Processing Standards Publication 79

(Date) ———————

Announcing the Standard for Magnetic Tape Labels and File Structure for Information Interchange

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

1. *Name of Standard.* Magnetic Tape Labels and File Structure for Information Interchange (FIPS PUB 79).

2. *Category of Standard.* Software Standard, Operating Procedures.

3. *Explanation.* This publication announces the adoption of X3.27–1978, American National Standard Magnetic Tape Labels and File Structure for Information Interchange, as a Federal Standard. This standard establishes four levels of labeling, label formats, blocking structure, and tape-mark relationships on magnetically recorded tapes (volumes) so that these volumes can be used for information interchange.

This standard contains specifications for processing volumes that correspond to a level of this standard to ensure proper treatment and understanding of these volumes and their contents in information interchange. The implementation of these processing specifications is called the system. A system exists for each level.

Each implementation of this standard is expected to be able to produce and accept volumes that corresponds to a level of this standard.

Any volume or volume set (defined in X3.27–1978 as a collection of related volumes) of a given level can be processed correctly by any system of equal or higher level; and any level system can process correctly any volume or volume set of equal or lower level. For example, a level 1 volume can be processed correctly on system levels 1, 2, 3, and 4. Similarly, system level 3 can process correctly volumes produced by system levels 1, 2, and 3.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce. National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard X3.27–1978, Magnetic Tape Labels and File Structure for Information Interchange.

7. *Related Documents.* a. American National Standard Code for Information Interchange, X3.4–1968 (FIPS PUBS 1 and 7), X3.4–1977.

b. American National Standard Recorded Magnetic Tape for Information Interchange (9-Track, 200 CPI, NRZI), X3.14–1973.

c. American National Standard Recorded Magnetic Tape for Information Interchange (9-Track, 800 CPI, NRZI), X3.22–1973, FIPS PUB 3–1.

d. American National Standard COBOL, X.23–1974, FIPS PUB 21–1.

e. American National Standard FORTRAN X3.9–1978.

f. American National Standard Representation for Calendar Date and Ordinal Date for Information Interchange, X3.30–1971, FIPS PUB 4.

g. American National Standard Recorded Magnetic Tape for Information Interchange (9-Track, 1600 CPI, Phase-Encoded), X3.39–1973, FIPS PUB 25.

h. American National Standard Unrecorded Tape, X3.40–1973.

i. American National Standard Representation of Numeric Values in Character Strings for Information Interchange, X3.42–1975.

j. American National Standard Recorded Magnetic Tape for Information Interchange (9-Track, 6250 CPI, Phase-Encoded), X3.54–1976, FIPS PUB 50.

k. American National Standard for Bibliographic Information Interchange on Magnetic Tape, Z39.2–1971.

l. Transmittal Form for Describing Computer Magnetic Tape File Properties, FIPS PUB 53.

m. Guidelines for Describing Information Interchange Formats, FIPS PUB 20.

8. *Objectives.* The objective of this standard is to reduce the difficulty of interchange of information recorded on magnetic tapes between different users and different computing systems. This objective is accomplished by specifying the format, content, and arrangement of magnetically recorded labels that identify and structure files and by specifying the format and arrangement of the blocks that contain the records that constitute a file.

The attainment of this objective, from a government-wide point of view, depends upon the widespread availability and use of systems that comply with this standard. Thus, the general intent of this publication is to provide a standard means of recording machine sensible labels, record formats (fixed, variable, and spanned), and file-volume combinations (single-file single-volume, single-file multi-volume, multi-file single-volume, multi-file multi-volume) in an interchange environment.

9. *Applicability.* This standard is applicable to all Federal departments and agencies. Information processing systems which either generate magnetic tapes for information interchange or accept magnetic tapes for information interchange shall have the capability of generating and processing magnetic tape labels and file structure in conformance with this standard. The standard shall be used in the interchange of magnetic tapes unless the interchange parties can agree on an alternate interchange format which is more efficient, convenient, and cost-effective.

10. *Specifications.* This standard adopts, with the qualifications noted in this section, the American National Standard X3.27–1978 for Magnetic Tape Labels and File Structure for Information Interchange.

The Federal Standard contains the same four levels of labeling described in X3.27–1978. Three of the main constituents of a level—the file formats, the labels used, and the record formats, are described in the following table. Each constituent contains two or three options. Within each option the types of file formats, labels, and record formats permitted for that option are listed.

Constituent	Option	Type
File Format	1	Single-file single-volume and single-file multi-volume
	2	Single-file single-volume, and single-file multi-volume, and multi-file single-volume, and multi-file multi-volume
Labels	1	VOL1 HDR1 EOV1 EOF1
	2	VOL1 HDR1 HDR2 EOV1 EOV2 EOF1 EOF2
Record Format	1	Fixed
	2	Fixed and variable
	3	Fixed, and variable, and spanned

The four levels of labeling in the Federal Standard numbered 1, 2, 3, and 4 in increasing order of complexity are made up of the constituent options as follows:

Summary of Level Constituents

	File format	Labels	Record format
Level 1	Option 1	Option 1	Option 1
Level 2	Option 2	Option 1	Option 1
Level 3	Option 2	Option 2	Option 2
Level 4	Option 2	Option 2	Option 3

10.1 Qualifications. a. ANSI X3.27–1978 specifies the use of the American National Standard Code for Information Interchange (ASCII), X3.4–1977, as the character code in representing the labels and data. For the purposes of this standard, American National Standard Code for Information Interchange defined in FIPS PUBS 1 and 7 replaces all references to ANSI X3.4–1977 and ASCII in ANSI X3.27–1978. All labels and data will be recorded in the character code defined in FIPS PUBS 1 and 7.

b. Appendix A, "Levels of Systems," and Appendix B, "Utilization of this Standard," of ANSI X3.27–1978 are not part of the Federal standard specifications, but are useful for the concepts and guidance they contain, and will be considered in resolving interpretations.

c. This standard requires that the following "mechanisms described in ANSI X3.27–1978, Section 1.3.1 (2) through (6) be provided in the system and that the documentation of these mechanisms be supplied in a separate document on preparing and using "interchange tapes." This document shall be a user's manual for producing and reading magnetic tapes conforming to this standard. The use of label facilities through each standard programming language separately described as well as any utilities capable of supporting this standard. The required document can be provided as an index which references applicable portions of existing documents. A single complimentary copy of this user's manual shall be transmitted to NBS for informational purposes, at the address cited in Section 11.3. The mechanisms are:

*A mechanism for a system to obtain information from a program, operator, installation, or user, as appropriate, to initialize, create, or verify labels.

*A mechanism for a system to communicate information to a program, operator, installation, or user, as appropriate, with respect to errors or unusual conditions.

*A mechanism for a program operator, installation, or user, as appropriate, to choose among the alternatives the system makes available.

*A mechanism for a program, operator, installation, or user, as appropriate, to invoke a facility the system makes available.

*A mechanism to pass control to an installation volume label processing routine to process user volume labels, or to an application program routine to process user file labels if these labels are available in an implementation.

Although programming language extensions to Federal standard programming languages for ANSI programming languages are not required by this standard, extensions to these languages may be one of the means through which vendors implement the mechanisms described above. Utility programs or a job control language are also acceptable alternatives.

11. *Implementation.* Implementation of this standard is divided into four areas of consideration: acquisition of a tape label processing facility, conformance to this standard, interpretation of this standard, and use of this standard.

11.1 Acquisition of a Tape Label Processing Facility. The provisions of this standard are effective October 17, 1981. Whenever a 9-track tape drive is acquired or when a new tape label processing facility is acquired, and the applicability criterion, Section 9, has been met, then the computer system must implement the specifications of this standard unless a waiver described in Section 12, Waivers, has been obtained. These requirements are applicable to tape label processing facilities developed in-house, acquired as part of an ADP system procurement, acquired by separate procurement, acquired as part of a time-sharing procurement, or used under an ADP leasing arrangement. Several of the standards listed in Section 7, Related Documents, provide the specifications for the recorded and unrecorded magnetic tapes.

11.2 Conformance to this Standard. A tape label processing facility that conforms to this standard must provide for all of the requirements defined in Section 10, Specifications, of this standard. Each implementation must conform to one of the four levels of the standard.

Opetional portions of X3.27–1978 are not required for this standard. If the optional portions are implemented, they must be in conformance with X3.27–1978.

11.3 Interpretation of the Standard. NBS will provide for the resolution of questions regarding this standard, and will issue official interpretations of the specifications and requirements.

All questions arising about the interpretation of this standard should be addressed to: Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234

11.4 Use of this standard. This standard must be used as described in Section 9, Applicability.

12 *Waivers.* Heads of agencies may request that the requirements of this standard for the acquisition of a tape label processing facility or the interchange of information on 9-track magnetic tapes be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of a non-conforming tape label processing facility unless it has already obtained such approval.

13. *Special Information.* While not included as a mandatory part of this standard, attention should be given to Appendix D of ANSI X3.27–1978, "Considerations Associated with Changes and Additions to the Earlier Version" (i.e., X3.27–1969). The information contained in this appendix could be helpful in developing a better understanding of problems usually encountered.

Other standards are being considered or are under development to provide standard labels and file structure for such media as disks and cassettes. When available, they will be reviewed to determine their applicability for adoption as Federal standards.

14. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 79 (NBS-FIPS-PUB 79), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 80-32313 Filed 10-16-80; 8:45 am]
BILLING CODE 3510-13-M

Proposed Federal Information Processing Standard for Optical Character Recognition (OCR) Character Positioning

Under the provisions of Pub. L. 89–306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing standards. A Federal Information Processing Standards Publication, Standard for Optical Character Recognition (OCR) Character Positioning, is being proposed for Federal use. It is based on the Federal Adoption of a proposed voluntary industry standard as it was developed and passed by the Technical Committee X3A1 of the American National Standards Institute.

Prior to the submission of this proposal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, which deals with the technical requirements of the standard. Only the announcement section of the proposal is provided in this notice.

Interested parties may obtain a copy oif the technical specifications from and submit comments in writing to the Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.[1] To be considered, comments on this proposed standard must be received on or before January 15, 1981.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street betweeen Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Dated: October 10, 1980.

Raymond G. Kammer,

Acting Director.

Federal Information Processing Standards Publication ————

(Date) —

Announcing the Standard for Optical Character Recognition (OCR) Character Positioning

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

Name of Standard. Optical Character Recognition (OCR) Character Positioning (FIPS PUB ————).

Category of Standard. Hardware Standard, Character Recognition.

Explanation. This standard specifies the nominal position with allowable tolerances, of OCR characters in relation to their location to other machine readable characters or sensed marks and to the document edges.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. Proposed American National Standard for Optical Character Recognition (OCR) Character Positioning (ANSI BSR X3.93M–1980).

Related Documents.—a. Proposed American National Standard for Character Set for Optical Character Recognition (OCR–A), ANSI BSR X3.17–1980.

b. American National Standard for Character Set for Optical Character Recognition (OCR–B), ANSI X3.49–1975.

c. Federal Information Processing Standards Publication (FIPS PUB) 32, Optical Character Recognition Character Sets.

d. Federal Information Processing Standards Publication (FIPS PUB) 40, Guideline for Optical Character Recognition Forms.

e. Federal Information Processing Standards Publication (FIPS PUB) ————, Standards for Optical Character Recognition (OCR) Inks.

Applicability. This standards is applicable to the acquisition of OCR printers, readers, and printed forms:

(1) Where the interchange of machine readable information between different systems may be required, or

(2) Where these products are produced by different manufacturers.

Users of existing equipment and printed forms are encouraged to employ this standard. Equipment and forms not in accordance with this standard should be evaluated periodically by Federal agencies because printers, readers, or forms with improperly positioned characters may seriously reduce productivity by causing misreadings (errors).

Specifications. This standard adopts in whole the proposed American National Standard for Optical Character Recognition (OCR) Character Positioning (ANSI BSR X3.93M–1980).

Qualifications. None.

Implementation Schedule. All applicable equipment and printed forms ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below.

Exceptions to this standard are made in the following cases:

a. For equipment installed or on order, or for printed forms in stock or on order prior to the effective date of this standard.

b. Where procurement actions are in the solicitation phase (i.e., Requests for Proposals or Invitations for Bids have been issued) prior to the effective date of this standard.

Waivers. Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost

[1] Specifications filed as part of the original document.

advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of non-conforming equipment or forms unless it has already obtained such approval.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication————(NBS-FIPS-PUB————), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 80-32309 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Coastal Zone Management Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Thursday and Friday, November 6–7, 1980. The meeting will commence at 8:45 a.m. on November 6, and 9 a.m. on November 7. The meetings will be held at the World Trade Center, Oval Room, 1 World Trade Center, New York, New York.

The meeting will be open to public observation and approximately 25 seats will be available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 2:30 p.m. until 3 p.m. on November 7, persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. The Chairperson retains the prerogative to place limits on the duration of oral statements and discussions. Persons wishing to make oral statements should notify the Committee Control Officer in advance of the meeting. A written version of an oral statement or a written statement may be submitted to the Committee Control Officer before or after the meeting, or may be mailed within five days to: Coastal Zone Management Advisory Committee, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attn: Ms. JoAnn Chandler, Committee Control Officer, CZM Advisory Committee. All statements received in typewritten form will be distributed to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to the Committee Staff at (202) 634–4249.

The items for Committee discussion at the meeting will include the following:

November 6

8:45 a.m.—Call to order—Barbara Fegan, Chairperson Introductions.
9 a.m.—Welcome and briefing on the Port Authority of New York and New Jersey.
9:15 a.m.—The Port of New York and New Jersey within the U.S. North Atlantic port structure/Competitive Posture.
10 a.m.—Coffee break—informal question period.
10:15 a.m.—Intergovernmental relationships at the Port of New York/New Jersey.
11 a.m.—Export coal study—Planning for the future.
Noon—lunch.
1:30 p.m.—Guided tour of Port of Newark-Elizabeth Port Authority Marine Terminal Seaport complex. (Space limited)
5 p.m.—Conclusion of tour.

November 7

9 a.m.—Dredging and dredged material disposal—Port Authority Approach and Management.
9:45 a.m.—Coffee break.
10 a.m.—New York/New Jersey Port Waterfront Cleanup Project.
10:30 a.m.—Urban Waterfront Redevelopment.
11 a.m.—Discussion.
11:30 a.m.—Committee deliberations.
Noon—lunch.

November 7

1 p.m.—Committee deliberations.
2:30 p.m.—Public statements (if any).
3 p.m.—Adjourn.

The meeting will be devoted to an analysis and commentary on current U.S. port problems and activities as related to the management of the coastal zone.

Dated: October 14, 1980.

Michael Glazer,

Assistant Administrator, Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 80-32304 Filed 10-14-80; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Level of Restraint for Certain Wool and Man-Made Fiber Products Imported From the Polish People's Republic

October 10, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adjusting the level of restraint established for wool and man-made fiber suits in category 443/643/644 from Poland to 13,342 dozen for the agreement year which began on January 1, 1980 by the application of swing and the reinstatement of unused carryforward.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic provides, among other things, for the borrowing of yardage in certain categories from the succeeding year's level with the amount used deducted from the level in the following year (carryforward); and that specific ceilings may be increased by designated percentages (swing). Pursuant to the terms of the bilateral agreement, the import restraint level for Category 443/643/644 is being increased from 12,114 dozen to 13,342 dozen during the twelve-month period which began on January 1, 1980.

EFFECTIVE DATE: October 10, 1980.

SUPPLEMENTARY INFORMATION: On December 27, 1979 there was published in the **Federal Register** (44 FR 7651) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain cotton, wool and man-made fiber textile products, including Category 443/643/644, produced or manufactured in Poland which may be entered into the

United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Category 443/643/644, produced or manufactured in Poland, at the increased level of 13,342 dozen during the agreement year which began on January 1, 1980.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 10, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 20, 1979, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Poland, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, and extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 10, 1980, to increase the twelve-month level of restraint for Category 443/643/644 to 13,342 dozen.[2]

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of wool and man-made fiber textile products from Poland have 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,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-32344 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic which provided, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

Adjusting Import Restraint Levels for Certain Cotton Textile Products From India

October 10, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying swing and carryover to the levels of restraint established for cotton dresses and trousers in Categories 336 and 347/8; applying carryover to the level for cotton knit shirts and blouses and men's and boys' woven cotton shirts, Category 338/339/340, and deducting swing transferred to Categories 336, 341 and 347/8 from Category 338/339/340; and applying carryforward and swing to the level for women's, girls' and infants' woven cotton blouses in Category 341 and deducting carryforward used in 1979. All adjustments apply to goods produced or manufactured in India and exported during the agreement year which began on January 1, 1980 and extends, through December 31, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172) as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, provides for percentage increases in certain categories during the agreement year (swing), and for the deduction of equivalent amounts from certain other categories; for the carryover of shortfalls in certain categories from the previous agreement year (carryover); for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward) and for deducting those amounts, to the extent used, during the succeeding year; and for administrative arrangements and adjustments to resolve minor problems arising in the implementation of the agreement. Accordingly, under the terms of the bilateral agreement, as amended, adjustments are being made in the levels of restraint established for cotton textile products in Categories 336, 338/339/340, 341 and 347/348, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1980.

EFFECTIVE DATE: October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979 there was published in the Federal Register (44 FR 76840) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established import levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1980. In the letter published below, in accordance with the provisions of the bilateral agreement and at the request of the Government of India, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month levels of restraint previously established for Categories 336, 338/339/340, 341 and 347/348 to the designated amounts.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

October 10, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 21, 1979, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption and withdrawal from warehouse for consumption during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in India, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

[1] The term "adjustment" refers to those provisions of the bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as

Footnotes continued on next page

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1971, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on October 15, 1980, the twelve-month levels of restraint established for Categories 336, 338/339/340, 341, and 347/348, whether accompanied by a visa or elephant-shaped certification, to the following:

Category	Amended 12-mo level of restraint [1]
336	227,221 dozen.
338/339/340	998,148 dozen.
341	2,202,385 dozen.
347/348	136,901 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have 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 to 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,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-32345 Filed 10-16-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before November 19, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION:
C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION:
This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an oportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 5440

Stepladder, Aluminum
5440-00-514-4483
5440-00-514-4485
5440-00-514-4487
(Requirements for GSA Regions 1,2,3,4 and National Capital Region)

Class 6532

Pajamas, Ladies
Tops, Medium 6532-00NSH-001
Tops, Large 6532-00NSH-0002
Pants, Medium 6532-00NSH-0003
Pants, Large 6532-00-NSH-004
Robe, Ladies 6532-00-NSH-0005

Class 8140

Box, Packing, Ammo, 4.2 In. Mortar
8140-00-866-6534
(Requirement for Longhorn Ammunition Dept, Marshall, Texas only)

C. W. Fletcher,

Executive Director.

[FR Doc. 80-32406 Filed 10-16-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Notice of Amendments to Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Proposed addition, deletions, and amendments to systems of records.

SUMMARY: The Department of the Army proposes to amend its inventory of system notices by adding 1, deleting 5, and amending 2 systems of records. The system of records being technically added is the result of reidentifying and consolidating information now appearing in two systems of records deleted herein. Specific changes to the systems of records being amended are set forth below, followed by the systems printed in their entirety as amended.

DATE: Actions shall be effected as proposed on November 3, 1980 unless comments are received which would result in a contrary determination and require republication for further comments.

ADDRESS: Written public comments are invited and may be submitted to Headquarters, Department of the Army, ATTN: DAAG-AMR-R, 1000 Independence Avenue, SW, Washington, DC 20314, prior to November 3, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard S. Christian, The Adjutant General's Office (DAAG-AMR-R), 1000 Independence Avenue, SW, Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION:
Department of the Army systems of records have been published in the following editions of the **Federal Register:**

FR Doc. 79-37052 (44 FR 73729) December 17, 1979
FR Doc. 80-594 (45 FR 1658) January 8, 1980
FR Doc. 80-3891 (45 FR 8399) February 7, 1980
FR Doc. 80-7515 (45 FR 15736) March 11, 1980
FR Doc. 80-9633 (45 FR 20992) March 31, 1980
FR Doc. 80-10014 (45 FR 21673) April 2, 1980
FR Doc. 80-150501-M (45 FR 26117) April 17, 1980
FR Doc. 80-13708 (45 FR 29390) May 2, 1980
FR Doc. 80-18501 (45 FR 41478) June 19, 1980
FR Doc. 80-20779 (45 FR 46842) July 11, 1980
FR Doc. 80-21847 (45 FR 48936) July 22, 1980
FR Doc. 80-29170 (45 FR 62875) September 22, 1980

October 10, 1980.

M. S. Healy,

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

Addition

A0102.13DAPC

SYSTEM NAME:

102.13 Office Military Personnel Files

SYSTEM LOCATION:

Decentralized segments of this file exist wherever unit and staff office administration of military personnel is authorized, whether active Army, Army Reserves, or National Guard; e.g., company, battery, troop detachment, branch, division, subordinate/major

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Footnotes continued from last page
amended, between the Governments of the United States and India which provide, in part, that, for specific limits of that agreement, (1) within the aggregate, group limits may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward, with carryforward used being deducted from the following year's level; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

command, Headquarters, Department of the Army/National Guard Bureau.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel and, in some instances, their dependents, who are supervised and/or administered within the respective organizational element enumerated in System Location above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include documents/papers pertaining to the individual relating to day-to-day admininstration/supervision. Files may include matters pertaining to appointment, promotion, reduction, reassignment, transfer, special duty, reclassification, orders, sponsors, indebtedness, leave, enlistment waivers, statement of service, bonus, evaluations, insurance, applications for outside employment, line of duty determinations, academic transcripts and individual training reports and instructor evaluations, retirement papers, voting, survivor benefits options, applications to boards and follow-on actions, and related administrative matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide commanders a general reference file of information supporting day-to-day operations and administration as pertains to the assigned/attached service member.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, index cards, mocrofiche.

RETRIEVABILITY:

Alphabetical, by name.

SAFEGUARDS:

Records are retained in file containers, locked desks, cabinets, or rooms accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed 1 year after transfer/separation of the member.

SYSTEM MANAGER(S) AND ADDRESS:

Head of Army/National Guard office or organizational element where member is assigned.

NOTIFICATION PROCEDURE:

Information may be obtained from the commander of unit to which individual is assigned.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the SYSMANAGER. Written requests should include individual's full name, social security number, and rank/grade. For personal visits, individual must provide military identification card.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Copies of records/documents contained in the Military Personnel Records Jacket, Official Military Personnel File, and correspondence originated by member or from sources relating to subjects in which member may be involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Deletions

A0007.02aDAPC

System name:

0007.02 Information Personnel Files (44 FR 73769) December 17, 1979.

Reason:

Records are covered by system of records A0102.13DAPC, Office Military Personnel Files, being added in this edition.

A0102.04bNGB

System name:

102.04 Supervisor's record of Technician Employment (NGB Form 904–1) (44 FR 73771) December 17, 1979.

Reason:

Records are covered by amended system notice A0102.04aDAPE, Supervisor/Manager Employee Records, printed below.

A0708.03bDAPC

System name:

708.02 Office General Reference/ Information/Personnel File (44 FR 73872) December 17, 1979.

Reason:

Records are covered by system of records A0102.13DAPC, Office Military Personnel Files, being added in this publication.

A1417.02DALO

System name:

1417.02 Authorized Supply Representative Card Files (44 FR 74003) December 17, 1979.

Reason:

Records are not subject to the Privacy Act of 1974.

A1417.03DALO

System name:

1417.03 Authorized Supply Representatives Card Register Files (44 FR 74004) December 17, 1979.

Reason:

Records are not subject to the Privacy Act of 1974.

Amendments

A0102.04aDAPE

System name:

102.04 Supervisor/Manager Employee Records (44 FR 73771) December 17, 1979.

Changes:

System location:

Before entry, insert: "Department of Army:". Following entry, add: "National Guard Bureau: Office of the State Adjutant General, ATTN: Technical Personnel Office, of each State, Puerto Rico, Virgin Islands, and the District of Columbia."

Categories of individuals covered by the system:

Change entry to read: "Any civilian employee/NG technician. . . ."

Categories of records in the system:

Wherever "civilian" appears, insert: "/NG technician".

Authority for maintenance of the system:

Add to entry: "and Title 32 U.S.C., Section 709."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete "US Civil Service Commission" and substitute therefor: "Office of Personnel Management".

Safeguards:

Change the first sentence to read: "Filed in either locked files or in secured locations. Access limited to management/supervisory officials of the assigned employees, clerical personnel maintaining the files, and to persons to whom the subject individual has given written permission."

Retention and disposal:

After "civilian", insert "technician". Add to entry: "National Guard technicians' records are destroyed 60 days after separation date."

Record source categories:

After "civilian", insert "technician".

A0708.02aDAPC

System name:

708.02 Official Military Personnel File (45 FR 21003) March 31, 1980.

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add: "United States International Communication Agency: To receive military and medical record information in conjunction with investigations of applications for sensitive positions under the provisions of Executive Order 10450."

A0718.01aDAPC

System name:

718.01 Military Award Case File (44 FR 73895), December 17, 1979.

Changes:

Retention and disposal:

Delete entire entry and substitute: "Approved wartime or combat activities military award case files are retained permanently; approved case files for all other periods are destroyed after one year. Disapproved military award case files are destroyed after 6 years."

A0102.04aDAPE

SYSTEM NAME:

102.04 Supervisor/Manager Employee Records.

SYSTEM LOCATION:

Department of the Army: Offices of supervisors/managers of the functional elements of an Army activity, installation, or agency.

National Guard Bureau: Office of the State Adjutant General, ATTN: Technician Personnel Office, of each State, Puerto Rico, Virgin Islands, and the District of Columbia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any civilian employee/NG technician (both appropriated and non-appropriated fund) who is employed within the specific organizational element.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain copies of documents pertaining to the administration of individual civilian/NG technician employees which are duplicated in, or are generated in support of actions recorded in, the Official Personnel Folder, or related personnel files maintained in the civilian/NG technician personnel office. The records in this file contain information about an individual relating to birth date; social security number; veteran's perference; tenure; handicap; past and present salaries, grades, and position titles; letters of commendation, reprimand, charges, and decision on charges; personnel action, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training; performance ratings, data documenting the reasons for personnel actions or decisions made about an individual; and awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Sections 301, 1302, 2951, 4118, 4308, and 4506; EO 1056, September 13, 1954; and Title 32 U.S.C., Section 709.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records is used for reference or to support supervisory/managerial actions required in the conduct of official civilian personnel management business; by the Office of Personnel Management in the conduct of its responsibilities; to Justice Department, Department of Labor, or other Federal agencies or judiciary bodies in the conduct of official business.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in folders, Kardex files.

RETRIEVABILITY:

Alphabetically, by surname.

SAFEGUARDS:

Filed in either locked files or in secured locations. Access limited to management/supervisory officials of the assigned employees, clerical personnel maintaining the files, and to persons to whom the subject individual has given written permission.

RETENTION AND DISPOSAL:

When an employee leaves the activity through transfer or other separation, the Supervisor/Manager Employee Records File will immediately be forwarded to the civilian/technician personnel office maintaining the Official Personnel Folder (OPF). There it will be screened to insure that it contains no documents that should be permanently filed in the OPF other than exact duplicates of papers already so filed. The Supervisor/Manager Employee Folder and its contents will then be destroyed. National Guard technicians' records are destroyed 60 days after separation date.

SYSTEM MANAGER(S) AND ADDRESS:

The Deputy Chief of Staff for Personnel, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the individual's supervisor/manager.

RECORD ACCESS PROCEDURES:

Requests, verbal or written, should be addressed to the individual's supervisor or manager.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from Headquarters, Department of the Army (DAPE–HRE), Washington, DC 20310.

RECORD SOURCE CATEGORIES:

From the supervisor/manager by documenting facts or statements of judgments; copies of records maintained in the civilian/technician personnel office or information obtained from same records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0708.02aDAPC

SYSTEM NAME:

708.02 Official Military Personnel File

SYSTEM LOCATION:

Primary System: Personnel Information Systems Directorate, United States Army Military Personnel Center (MILPERCEN).

Decentralized Segments: United States Army Enlisted Records and Evaluation Center; United States Army Reserve Components Personnel and Administration Center (RCPAC); and National Personnel Records Center (NPRC), General Services Administration (GSA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each individual on active duty in the United States Army in enlisted, appointed, or commissioned status; or in a United States Army or Army of the

United States (AUS) retired status, each individual not on active duty who has a reserve status in an enlisted, appointed, or commissioned status, or in a retired reserve status; and each individual who was an elisted, appointed, or commissioned member of the United States Army and who was completely separated by discharge, death, or other termination of his/her military status.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual records including enlistment contract; Veterans Administration (VA) laws; physical evaluation board proceedings; miltary occupational specialty data report; statement of service; qualification record; group life insurance election; emergency data form; application for appointment; qualification/evaluation report; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or discharge report; active duty report; voluntary reduction; line of duty and misconduct determination; discharge or separation reviews; police record checks; consent/declaration of parent/guardian; Army Reserve Officers Training Corps (ROTC) supplemental agreement; award recommendations; academic reports; casualty reports; United States field medical card; retirement points; deferment preinduction processing and commissioning data; transcripts of military records; summary sheets review of conscientious objector; election of options; oath of enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding, Title 10 U.S.C., Section 815 appellate actions; determination of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements for enlistment; acknowledgements of service requirements; retired benefits; application for review of physical evaluation board and disability board; appointments; designations; evaluations; extensions; birth certificates; photographs; citizenship statements and status; educational constructive credit; educational transcripts; flight status board reviews; assignment agreements/limitations/waivers/election, and travel; efficiency appeals; promotion/reduction recommendations/approvals/declinations/announcements/notifications/reconsiderations/worksheets/elections/letters of notification to deferred officers, and promotion passover notifications; absence without leave and desertion records; Federal Bureau of Investigation reports; Social Security Administration (SSA) correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertaining to dependents, interservice actions, inservice details, determinations, reliefs, component; awards, pay entitlements, releases, transfers, and other military service data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of the Army (DA): To maintain, use, collect, and disseminate information with respect to an individual holding a military status or former military status, including regular, reserve, retired, former member separated, or deceased. Information pertains to individual's former, current, and subsequent to active duty status relating to birth; citizenship; parentage; home of record; education; training; dependents; travel; language proficiency; former and current association, brotherhood, memberships, and related affiliation with organizations and like collective elements which service member divulges as having meaning, substance, or significance to his/her military service status; assignment history and other related military experiences, qualification, training, preference, restriction, and status actions.

Department of State: To issue passport/visa; to document persona-non-grata status, attache assignments, and related administration of personnel assigned and performing duty with the State Department.

Department of the Treasury: To issue bonds; to collect and record incoming taxes.

Department of Defense (DOD): To authorize and consummate interdepartmental actions relating to interservice requirements pertaining to Army, Navy, Air Force, and Coast Guard when the Coast Guard is operational under DOD.

Department of Justice: To file fingerprints; to perform intelligence function.

Department of Agriculture: To coordinate interdepartmental functions relating to education conducted by the Department of Agriculture's advanced education element.

Department of Labor: To accomplish actions required under Federal Employees Compensation Act.

Department of Health, Education, and Welfare: To provide services authorized by medical, health, and related functions authorized by Title 10 U.S.C., Sections 1074 thru 1079.

Atomic Energy Commission: To accomplish requirements incident to Nuclear Accident/Incident Control Officer functions.

American Red Cross: To accomplish coordination and complete service functions including blood donor programs and emergency investigative support and notifications.

Civil Aeronautics Board: Flight qualifications, certification, and license actions relating to inservice pilots.

Federal Aviation Agency: To accomplish aviation and air service actions involving inservice aviators.

GSA: For records storage and archival services and for printing of directories and related material which includes personal data.

U.S. Postal Service: To accomplish postal service authorization involving postal officers and mail clerk authorizations.

VA: To provide information relating to benefits, pensions, inservice loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization: To comply with statutes relating to inservice alien registration and annual residence/location.

Office of the President of the United States of America: To exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission: To obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

Each of the several States and United States possessions: To support state bonus applications; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions: To accomplish student registration, tuition support, Graduate Record Examination (GRE) tests requirement, and related school requirements incident to inservice education programs in compliance with Title 10 U.S.C., Chapters 102 and 103.

SSA: To obtain or verify social security numbers (SSN); to transmit Federal Insurance Compensation Act deductions made from inservice members' wages.

Department of Transportation: To coordinate and exchange necessary information pertaining to interservice relationships between United States Coast Guard (USCG) and United States Army when service members perform duty with the USCG elements or training activities.

Civil authorities: For compliance with Title 10 U.S.C., Section 814.

Department of the Air Force: To administer personnel support for individual Army members assigned for duty with the Air Force.

Department of the Navy: To administer personnel support for individual Army members assigned for duty with the Navy or Marine Corps.

United States International Communication Agency: To receive military and medical record information in conjunction with investigations of applicants for sensitive positions under the provisions of Executive Order 10450.

Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175 and Title 42 U.S.C., Section 4582. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. Blanket "routine uses" identified in 44 FR 72728 do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfiche in plastic carrier stored randomly in electromechanical storage/retrieval devices. Temporary files consist of paper records in file folder/jacket; selected data automated for management facility in a perishable manner on tapes, disks, cards, and other computer media.

RETRIEVABILITY:

Filed alphabetically by last name, automated data retrievable by name, SSN, or automatic data processing parameter; reserve component, retired, and deceased persons' records accessed by SSN terminal digit sequence.

SAFEGUARDS:

Records maintained in areas accessible only to authorized personnel; automated media protected by authorized password system for access terminals, controlled access to operation rooms, and controlled output distribution.

RETENTION AND DISPOSAL:

Microfiche and paper records are permanent. They are retained in active files until termination of service, held in inactive file in accordance with retention and retirement schedule and subsequently retired to NPRC.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, United States Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Following address should be used for inquiries on records of commissioned or warrant officers (including members of Reserve Components) serving on active duty:

Commander
United States Army Military Personnel Center
ATTN: Personnel Information Systems Directorate
Hoffman Building II
200 Stovall Street
Alexandria, VA 22332
Telephone: Area Code 202/325–9606.

Following address should be used for inquiries on records of enlisted members (including members of Reserve Components) serving on active duty:

Commander
United States Army Enlisted Records and Evaluation Center
Ft Benjamin Harrison, IN 46249
Telephone: Area Code 317/542–3361.

Following address should be used for inquiries on records of commissioned officers or warrant officers in a reserve status not on active duty; or Army enlisted reservists not on active duty; or members of the National Guard who performed active duty; or commissioned officers, warrant officers, or enlisted members in a retired status:

Commander
United States Army Reserve Components Personnel and Administration Center
9700 Page Boulevard
St. Louis, MO 63132
Telephone: Area Code 314/268–7770.

Following address should be used for inquiries on records of commissioned officers or warrant officers who were completely separated from the service after 30 June 1917 or enlisted members who were completely separated after 31 October 1912:

Commander
National Personnel Records Center
General Services Administration
9700 Page Boulevard
St. Louis, MO 63132
Telephone: Area Code 314/268–7262.

RECORD ACCESS PROCEDURES:

Written requests for information should contain full name of individual, service identification number, current or former military status, and appropriate return address.

Personal visits may be made to the appropriate location based on the individual's status; individual should be able to provide commonly acceptable identification such as driver's license, employment identification card, and give some verbal information relative to his/her current or former military status.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from Headquarters, Department of the Army (DAPC–MSO), 200 Stovall Street, Alexandria, VA 22332.

RECORD SOURCE CATEGORIES:

Enlistment, appointment, or commission related forms pertaining to the individual having a current or former military status; academic, training, or qualification records acquired prior to or during military service correspondence, forms, records, documents, and other related papers originating in or collected by DA Staff agencies and commands; other Federal departmental agencies, administration, Federal separate agencies, commissions, boards, service, or authority; State and local governmental entities; civilian education and training institutions; and members of the public when such information obtained directly concerns the military service member.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0718.01DAPC

SYSTEM NAME:

718.01 Military Award Case File

SYSTEM LOCATION:

Primary System: United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Decentralized Segments: Each Army command delegated authority for approval of an award.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel on active duty, members of reserve components, United States (US) civilians serving with US Army in a combat zone, and deceased former members of the US Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain recommendation for award; endorsements; transmittals; letters; memoranda; award board approvals/disapprovals; citation texts pertaining to the specific individual and award; Department of the Army (DA) letter orders/general orders; related papers supporting the recommendation; correspondence among (1) MILPERCEN, (2) service member, (3) Army Staff offices, (4) Army commands, and (5) individuals having knowledge/information relative to the service member concerned or the act or achievement stated in the recommendation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301; Title 10 U.S.C., Chapters 57 and 357.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Each Army command having authority for action for a specific award: To accomplish review; to authorize the award; to maintain the award case file of approved and disapproved recommendations.

MILPERCEN: To act as the Army element for Headquarters, Department of the Army; to accomplish the review and to authorize the award of these awards/decorations which are not delegated or within the scope of authority of a subordinate element of the Army; to maintain the award case file of approved and disapproved recommendations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Records accessed by name.

SAFEGUARDS:

Records maintained in areas accessible only to authorized individuals.

RETENTION AND DISPOSAL:

Approved wartime or combat activities military award case files are retained permanently; approved case files for all other periods are destroyed after one year. Disapproved military award case files are destroyed after 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, United States Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Information may be obtained from United States Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

RECORD ACCESS PROCEDURES:

Written requests for information should include the full name, service identification number, grade and branch of service, name of award, and current address.

Visits should be made to the organization/station of the service member or to the United States Army Military Personnel Center.

For personal visits, the visitor should be able to provide acceptable identification, i.e., military identification normally acceptable in the transaction of business.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from Headquarters, Department of the Army (DAPC–MSS), 200 Stovall Street, Alexandria, VA 22332.

RECORD SOURCE CATEGORIES:

Recommendation for Award (DA Form 638) with supporting records, forms, statements, letters, and related papers originated by person other than the awardee and other individuals having information useful in making an award determination.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80–32480 Filed 10–16–80; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Strategic Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on November 3–4, 1980, from 8:00 a.m. to 5:00 p.m. each day, at Headquarters of the Commander in Chief, Pacific, Camp Smith, Hawaii. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions on the nature of collective security in the Pacific and the Indian Ocean, centering around the most sensitive intelligence information available on the military and political situation in the area. These matters constitute classified inforamtion that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander Catherine Z. Becker, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Phone No. (703) 756–1205.

Dated: October 14, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80–32383 Filed 10–16–80; 8:45 am]

BILLING CODE 3810–71–M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on November 3, 1980, beginning at 10:00 a.m. The hearing will be held in the Goddard Conference Room at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be a proposed amendment to Commission policy relating to ground water management.

The Commission's Comprehensive Plan includes statements of policy relating to the management of ground water resources throughout the Delaware River Basin. Policies designed to protect quantitative elements of ground water were adopted in 1964 (Resolution No. 64–11). These were supplemented in 1972 and 1978 by policy designed to protect ground water quality. (Resolutions Nos. 72–14 and 78–8). These policies appear in the Water Code of the Delaware River Basin published in July 1978.

Limitation on withdrawals from ground water sources is an essential element of proper water management, particularly in areas of excessive use, or

during drought periods when shortages threaten to occur. Recognition of the necessity to limit withdrawals from ground water is included in the Delaware River Basin Compact, and reflected in Commission policies providing that withdrawals shall be limited to the safe yield of the underground water source.

In order to give more specific content to its ground water policies the Commission proposed a definition of the concept of "safe yield," and held public hearings on that proposal on June 10 and 11, 1980. No action to approve that proposed definition has been taken by the Commission. In response to testimony received, and further consultation with water management specialist, a concept of "withdrawal limitation" in lieu of "safe yield" is now under consideration by the Commission. The revised concept is stated below.

The Commission invites public comment on the following concept of "withdrawal limits" as a proposed policy amendment to the Comprehensive Plan.

Withdrawal Limits. Except as may be otherwise determined by the Commission to be in the public interest, withdrawals from the underground waters of the Basin shall be limited to the maximum draft of all withdrawals from a ground water basin, aquifer, or aquifer system that can be sustained without rendering supplies unreliable, causing long-term progressive lowering of ground water levels, water quality degradation, permanent loss of storage capacity, or substantial impact on low flows of perennial streams.

Persons wishing to testify are requested to notify the Secretary to the Commission, by phone or in writing, prior to the hearing. Written testimony may be submitted in place of oral presentation and will be made part of the record.

W. Brinton Whitall,

Secretary.

October 10, 1980.

[FR Doc. 80-32433 Filed 10-16-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-80-33]

Report to the Department of Energy on "Designing Methods for Distributing Petroleum During a Shortage and Selecting Standby Distribution Mechanisms"

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby give notice of the cancellation of the public hearing on the Report to the Department of Energy on "Designing Methods for Distributing Petroleum During a Shortage and Selecting Standby Distribution Mechanisms" (45 FR 63909, September 26, 1980) scheduled for 9:30 a.m. on October 21, 1980, in Room 305B, Federal Building, 26 Federal Plaza, New York, New York. The Chicago Hearing on this matter remains scheduled for October 29, 1980, and the Washington, D.C. hearing remains scheduled for November 13, 1980.

FOR FURTHER INFORMATION CONTACT:

Lorraine Hall (Office of Public Hearing Management), Economic Regulatory Administration, Room B-210, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 653-4055.

William E. Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3256.

Joel Yudson (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6744.

Issued at Washington, D.C., on October 16, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-32638 Filed 10-16-80; 11:34 am]

BILLING CODE 6450-01-M

Coral Petroleum Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective Date: January 11, 1980. Comments by: November 17, 1980.

ADDRESS: Send comments to: Robert D. Gerring, Director, Program Operations, Office of Enforcement, Economic Regulatory Administration, 2000 M Street, NW., Room 5002, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Robert D. Gerring, Director, Program Operations, Office of Enforcement, Economic Regulatory Administration, 2000 M Street, NW., Room 5002, Washington, D.C. 20461 (202) 653-3507.

SUPPLEMENTARY INFORMATION: On January 11, 1980, the Office of Enforcement of the ERA executed a Consent Order with Coral Petroleum, Inc., its subsidiaries and affiliates, both foreign and domestic, (Coral) of Houston, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective upon its execution only if the DOE expressly finds it to be in the public interest to do so.

This Consent Order is an integral part of the disposition of certain criminal and civil disputes in regard to Coral and The Coastal Corporation, and its subsidiaries and affiliates, both foreign and domestic (Coastal), as agreed to in the letter agreement dated January 4, 1980 between the parties in the matter of *U.S.A.* v. *Coastal States Crude Gathering Company and Coral Petroleum, Inc.* filed with the U.S. District Court, Southern District of Texas, Houston Division.[1] Accordingly, in order to resolve both criminal and civil matters as agreed, the DOE made this Consent Order effective immediately upon execution by both Coral and the DOE in furtherance of the public interest.

I. Consent Order

Coral, with its home office located in Houston, Texas, is a firm engaged in the resale of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Part 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Coral, and the letter agreement described above, the Office of Enforcement, ERA, and Coral entered into a Consent Order, the significant terms of which are as follows:

[1] Contemporaneous with the settlement with Coral, DOE executed a Consent Order and a Statement of Plea Bargain was accepted with respect to alleged illegal activities by Coastal. See 45 FR 12286 (Feb. 25, 1980).

1. During the period from November 1, 1974 through January 11, 1980 (the "settlement period"), Coral was a reseller of crude oil as that term is defined at 10 CFR 212.31 and was subject to the price rules and other provisions applicable to such resellers.

2. During the settlement period, DOE claims that Coral bought crude oil from Coastal and resold it in a number of instances without the certification which DOE maintains was required and/or at prices which the DOE maintains were in excess of the maximum lawful selling prices applicable to such oil, as provided in 10 CFR Part 212.

3. In addition to the refunded overcharges described below in Section II, Coral agrees to pay to the DOE a $1,000,000 civil penalty under Section 5 of the Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. 754(a)(3)(A)(i) (1976), arising out of the crude oil transactions described in paragraph I.2.

4. Coral waives any claim for refund of monies paid by it to Coastal pursuant to the transactions upon which this Consent Order was based.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to this Consent Order.

II. Disposition of Refunds

In this Consent Order, Coral, without admitting any violation of law or regulation, agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.2, above, the sum of $9,000,000 plus interest. Payment is to be made in three annual installments: $3,000,000 by January 21, 1980, $3,000,000 plus interest by January 11, 1981, and $3,000,000 plus interest by January 11, 1982. Interest accrues as of January 11, 1980. Refunds will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending a determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

The Office of Enforcement, ERA (OE) is unable readily to identify the persons entitled to receive the $9,000,000 plus interest or the amounts of refunds that such persons are entitled to receive. OE will therefore petition the Office of Hearings and Appeals (OHA) to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.28 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them.[2]

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Robert D. Gerring, Director, Program Operations, Office of Enforcement, Economic Regulatory Administration, 2000 M Street, NW., Room 5002, Washington, D.C. 20461. You may obtain a free copy of this Consent Order by writing to the same address or by calling (202) 653–3507.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Coral Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 17, 1980.

You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 26th day of September 1980.

Robert Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

[FR Doc. 80-32352 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

[2] On August 21, 1980, the OHA issued a Decision and Order accepting jurisdiction under 10 CFR Part 205, Subpart V, over the refunds received by the DOE from Coastal. 5 DOE Par. (Aug. 21, 1980).

Hertz Corp.: Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

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

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

DATE: Comments by: November 17, 1980.

ADDRESS: Send comments to Thomas M. Holleran, Program Manager, Product Retailer Branch, Office of Enforcement, Economic Regulatory Administration, 2000 M Street, NW., Room 5108, Washington, DC. 20461.

SUPPLEMENTARY INFORMATION: On October 7, 1980, the Office of Enforcement of the ERA executed a proposed Consent Order with Hertz Corporation Rent-A-Car Division (Hertz). Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate excluding penalties and interest becomes effective only after the DOE has provided an opportunity for comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA, may after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order.

Hertz, with home office located in New York, New York, is engaged in the busines of renting automobiles. In the course of those rental transactions Hertz levies a charge, referred to by Hertz as a "refueling service charge", in connection with such transactions. The ERA alleges that Hertz is a retailer of gasoline as

defined in 10 CFR 212.31, and as such is subject to the DOE's Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212 and that the above-referenced charges for gasoline were in excess of the maximum lawful selling price for gasoline through June 30, 1980. To resolve certain civil actions which could be brought by the Office of Enforcement of the ERA as a result of its audit of Hertz, the Office of Enforcement of the ERA and Hertz entered into a Consent Order, the significant provisions of which are as follows:

1. Hertz agrees prospectively to compute its gasoline charges in accordance with the Mandatory Petroleum Price Regulations and to refund to its automobile rental customers the amount of $849,918, including interest.

2. The refund shall be accomplished pursuant to a rollback of two (2) cents per gallon from the maximum legal selling price (MLSP) for each grade of gasoline beginning the first day of the month following the month in which the Consent Order becomes effective. If Hertz's charges at any time during the rollback period are below the MLSP, the rollback shall be computed from those current charges. The projected rollback period is 12 months. Hertz shall file certain written reports with the ERA ever 3 months during the rollback period which demonstrate the progress of the rollback. The DOE has determined this disposition of refunded overcharges to be a just and equitable refund procedure and in accordance with applicable laws and regulations.

3. Hertz agrees to comply with the posting requirement of 10 CFR 211.129.

4. The Consent Order is for the purpose of settling and compromising disputed issues of alleged liability and constitutes neither an admission by Hertz that any DOE regulations have been violated nor a finding by the DOE that Hertz has violated DOE regulations.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to Robert Gerring, Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration, 2000 M St. N.W., Department of Energy, Washington, D.C. 20461. You may obtain a free copy of this Consent Order by writing to the same address or by calling 202–654–3507.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation. "Comments on Hertz Corporation Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 17, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 10th day of October, 1980.

Dated: October 10, 1980.

James J. Fenton,

Acting Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

[FR Doc. 80-32353 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the natural gas use prohibitions of Sections 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR Part 508 to the petitioners who own or operate the powerplants listed in the table below.

Docket No.	Owner	Generating station	Powerplant identification	Maximum duration date [1]
50135-3548-02-41	City of Austin	Decker	No. 2	10/12/84
50318-3628-03-41	Brazos Electric Power Cooperative, Inc	R. W. Miller	No. 3	4/22/85
50499-0460-04-41	Central Telephone and Utilities Corp., Southern Colorado Power Division.	Pueblo	No. 4	4/4/85
50499-0460-05-41			No. 5	
50499-0460-06-41			No. 6	
61029-9155-21-41	City of Cleveland	West 41st Street.	GT 1	2/7/85
61029-9155-22-41			GT 2	
61029-9154-23-41		Collinwood	GT 3	2/7/85
50643-0877-31-41	Commonwealth Edison	Lombard	CT 31-1	3/3/85
50643-0877-32-41			CT 31-2	
50643-0877-33-41			CT 32-1	
50643-0877-34-41			CT 32-2	
50643-0877-35-41			CT 33-1	
50643-0877-36-41			CT 33-2	
50643-0875-31-41		Joliet	CT 31-1	3/3/85
50643-0875-32-41			CT 31-2	
50643-0875-33-41			CT 31-3	
50643-0875-34-41			CT 31-4	
50643-0875-35-41			CT 32-1	
50643-0875-36-41			CT 32-2	
50643-0875-37-41			CT 32-3	
50643-0875-38-41			CT 32-4	
50643-0866-31-41		Calumet	CT 31-1	3/3/85
50643-0866-32-41			CT 31-2	
50643-0866-33-41			CT 31-3	
50643-0866-34-41			CT 31-4	
50643-0866-35-41			CT 33-1	
50643-0866-36-41			CT 33-2	
50643-0866-37-41			CT 33-3	
50643-0866-38-41			CT 33-4	
50643-0866-39-41			CT 34-1	
50643-0866-40-41			CT 34-2	
50643-0866-41-41			CT 34-3	
50643-0866-42-41			CT 34-4	
50643-0870-31-41		Electric Junction.	CT 31-1	3/3/85
50643-0870-32-41			CT 31-2	
50643-0870-33-41			CT 31-3	
50643-0870-34-41			CT 31-4	
50643-0870-35-41			CT 32-1	
50643-0870-36-41			CT 32-2	
50643-0870-37-41			CT 32-3	
50643-0870-38-41			CT 32-4	
50643-0870-39-41			CT 33-1	
50643-0870-40-41			CT 33-2	
50643-0870-41-41			CT 33-3	
50643-0870-42-41			CT 33-4	
50782-1726-15-41	Detroit Edison	Conner's Creek.	No. 13	4/10/85
50904-6223-21-41	Empire District Electric Company	Empire Energy Center.	CT 1	3/24/85
50904-6223-22-41			CT 2	
51121-0377-58-41	City of Glendale California Public Service Department.	Grayson Power Plant.	CC 8	2/22/85
51381-8065-21-41	Idaho Power Company	Wood River	CT 1	5/6/85
51388-9006-21-41	Imperial Irrigation District	Rockwood	CT 1	5/16/84
51549-1443-03-41	City of Lafayette Utilities	Doc Bonin	No. 3	6/21/84
54020-3112-21-41	Metropolitan Edison	Orrtanna	CT 1	2/27/85
54020-3109-21-41		Hamilton	CT 1	2/27/85
54020-3114-21-41		Shawnee	CT 1	2/27/85

Docket No.	Owner	Generating station	Powerplant identification	Maximum duration date [1]
54020-3111-21-41		Mountain	CT 1	2/27/85
54020-3111-22-41			CT 2	
54020-3110-21-41		Hunterstown	CT 1	2/27/85
54020-3110-22-41			CT 2	
54020-3110-23-41			CT 3	
52370-3043-22-41	Portland General Electric	Bethel	CT 2	8/31/84
52370-9138-51-41		Beaver	CC 1	9/21/84
52370-9138-52-41			CC 2	
52370-9138-53-41			CC 3	
52370-9138-54-41			CC 4	
52370-9138-55-41			CC 5	
52370-9138-56-41			CC 6	
52721-0329-53-41	Southern California Edison Company	Cool Water	CC 3	10/5/84
52721-0329-54-41			CC 4	
53256-3524-04-41	West Texas Utilities Company	Paint Creek	No. 4	11/13/84
53256-3526-06-41		Rio Pecos	No. 6	11/13/84

[1] Maximum date to which exemption can be extended.

The petitioners filed for these temporary public interest exemptions pursuant to 10 CFR Part 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule). Notices of the petitions and proposed orders granting these temporary exemptions were published in the July 21, 1980, **Federal Register** (45 FR 48684) presenting an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order.

The Process Gas Consumer's Group, the American Iron and Steel Institute and the Georgia Industrial Group requested a hearing. These same persons requested a hearing regarding previously filed similar petitions for exemption under the Special Rule. In that previous proceeding, the hearing which was convened pursuant to the request of Process Gas Consumer's Group *et al.*, was dismissed upon the ground that the Group *et al.* had failed to demonstrate the requisite interest as interested persons (*see*, Section 701 of FUA and 10 CFR 501.33 and 501.34). The Group's *et al.* request for a hearing regarding petitions for exemption and proposed order noticed at 45 FR 18423, published on March 21, 1980 contained nothing additional or new as compared with their previous request. Consequently, ERA decided to deny their request for a public hearing on these petitions.

Based on the information provided by the petitioners, the powerplants listed in the above table are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil.

Statement of Reasons

Because world oil supplies continue to be unstable, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioners have demonstrated that these powerplants, for which they are requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioners have also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA, will displace consumption of middle distillate fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioners' utility systems, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioners have met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemption

ERA grants these temporary public interest exemptions for the maximum statutory period of five years, which includes the period during which the petitioners were allowed to burn gas while their petitions were pending, to the extent that such period will not extend beyond June 30, 1985. The termination dates of these temporary public interest exemptions are listed in the table on the first page. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** (December 16, 1980). However, accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by the exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as each petitioner, its successors and assigns, comply with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in each exempted powerplant, and an estimate of the number of barrels of middle distillate fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five year period covered by this temporary exemption, including the means by which the petitioner will measure progress in implementing this plan. If a petitioner has received temporary public interest exemptions under previous orders for other powerplants within his utility system, the first granted exemption order establishes the due date in the system-wide conservation plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1981, a report on progress achieved in implementing the system-wide fuel conservation plan.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligations the utility may have to its customers.

Issued in Washington, D.C. on October 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-32445 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Sections 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR Part 508 to the petitioners who own or operate the powerplants listed in the table below.

Docket No.	Petitioner	Generating station	Powerplant identification
50318-3628-02-41	Brazos Electric Power Cooperative, Inc	R. W. Miller	No. 2.
50499-9164-03-41	Central Telephone and Utilities Corp., Western Power Division.	Judson Large	No. 3.
50499-9164-04-41			No. 4.
50499-9165-01-41		Arthur Mullergren	No. 1.
50499-9165-02-41			No. 2.
50499-9165-03-41			No. 3.
50781-1822-05-41	City of Detroit, Public Lighting Department	Mistersky Power Station	No. 5.
50781-1822-06-41			No. 6.
50781-1822-07-41			No. 7.
50782-9077-14-41	Detroit Edison	Delray	No. 1.
50782-9077-15-41			No. 7.
50782-9077-16-41			No. 8.
50782-9077-17-41			No. 9.
50782-9077-18-41			No. 10.
50782-9077-19-41			No. 11.
50782-9077-20-41			No. 12.
51150-2242-01-41	City of Grand Island Utility Department	Pine Street	No. 1.
51150-2241-01-41		Burdick	No. 1.
51150-2241-02-41			No. 2.
51150-2241-03-41			No. 3.
51478-1244-04-41	Kansas Gas & Electric Company	Ripley	No. 4.
51478-1244-05-41			No. 5.
51479-1248-01-41	The Kansas Power & Light Company	Hutchinson	No. 1.
51479-1248-02-41			No. 2.
51479-1248-03-41			No. 3.
52000-1616-01-41	New Bedford Gas & Edison Light Company	Cannon Street	No. 1.
52000-1616-02-41			No. 2.
52000-1616-03-41			No. 3.
65016-9152-04-41	Owatonna Public Utilities	Owatonna Power Plant	No. 4.
65016-9152-05-41			No. 5.
65016-9152-06-41			No. 6.
52564-8068-51-41	Salt River Project	Santan	CC 1.
52564-8068-52-41			CC 2.
52564-8068-53-41			CC 3.
52564-8068-54-41			CC 4.
52658-2330-01-41	Sierra Pacific Power Company	Fort Churchill	No. 1.
52658-2330-02-41			No. 2.
52658-2336-01-41		Tracy	No. 1.
52658-2336-02-41			No. 2.
52658-2336-03-41			No. 3.
53256-3517-04-41	West Texas Utilities Company	Abilene	No. 4.
53256-3518-04-41		Concho	No. 4.
53256-4938-01-41		Fort Phantom	No. 1.
53256-4938-02-41			No. 2.
53256-3521-01-41		Lake Pauline	No. 1.
53256-3521-02-41			No. 2.
53256-3523-01-41		Oak Creek	No. 1.
53256-3524-01-41		Paint Creek	No. 1.
53256-3524-02-41			No. 2.
53256-3524-03-41			No. 3.

The petitioners filed for these temporary public interest exemptions pursuant to 10 CFR Part 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule). Notice of the petitions and a proposed order granting these temporary exemptions was published in the July 21, 1980, **Federal Register** (45 FR 48684) presenting an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order.

The Process Gas Consumer's Group, the American Iron and Steel Institute and the Georgia Industrial Group requested a hearing. These same persons requested a hearing regarding previously filed similar petitions for exemption under the Special Rule. In that previous proceeding, the hearing which was convened pursuant to the request of Process Gas Consumer's Group *et al.*, was dismissed upon the ground that the Group *et al.* had failed to demonstrate the requisite interest as interested persons (*see*, Section 701 of FUA and 10 CFR 501.33 and 501.34). The Group's *et al.* request for a hearing regarding petitions for exemption and proposed order noticed at 45 FR 18423, published on March 21, 1980 contained nothing additional or new as compared with their previous request. Consequently, ERA decided to deny their request for a public hearing on these petitions.

Based on the information provided by the petitioners, the listed powerplants are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) or (3) of FUA, to displace consumption of high sulfur residual fuel oil.

Statement of Reasons

Because world oil supplies continue to be unstable, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing poweplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of

national energy self-sufficiency.

The petitioners have demonstrated that these powerplants, for which they are requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioners have also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of high sulfur residual fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioners' utility systems, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioners have met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions until December 7, 1981. Upon the request of the petitioners these exemptions may be extended for an additional period at the discretion of ERA. However, a temporary public interest exemption, including all extensions and the period during which the petitioners were allowed to burn gas while their petitions were pending may not exceed the maximum 5 year period authorized by the Act, or extend beyond June 30, 1985. All requests for extensions must be filed with ERA by September 7, 1981. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following its publication the **Federal Register** (December 16, 1980) in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by the exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as each petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in each exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan. If the petitioner has received temporary public interest exemptions under previous orders, the first granted exemption order will establish the due date for the system-wide fuel conservation plan.

(3) If the petitioner seeks to have the exemptions extended, the fuel conservation plan must cover both the initial period covered by these temporary exemptions and the additional period, including the means by which the petitioner will measure progress in implementing this plan.

(4) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1981, a report on progress achieved in implementing the pertinent fuel conservation plan, if the petitioner's exemptions are extended beyond December 7, 1981.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are admininstered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligations the utility may have to its customers.

Issued in Washington, D.C., on October 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-32446 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Sections 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.* This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR Part 508 to the petitioners who own or operate the powerplants listed in the table below.

Docket No.	Petitioner	Generating station	Powerplant identification	Maximum duration date [1]
50412-1594-12-41	Cambridge Electric Light Company	Blackstone Street.	No. 12	4/24/85
50499-6516-01-41	Central Telephone and Utilities Corp., Southern Colorado Power Division.	Rocky Ford	No. 1	4/4/85

[1] Maximum date to which the exemption can be extended.

The petitioners filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule). Notice of the petitions and a proposed order granting these temporary exemptions was published in the July 21, 1980, **Federal Register** (45 FR 48684) presenting an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order.

The Process Gas Consumer's Group, the American Iron and Steel Institute and the Georgia Industrial Group requested a hearing. These same persons requested a hearing regarding previously filed similar petitions for exemption under the Special Rule. In that previous proceeding, the hearing which was convened pursuant to the request of Process Gas Consumer's Group *et al.*, was dismissed upon the ground that the Group *et al.* had failed to demonstrate the requisite interest as interested persons (*see*, Section 701 of FUA and 10 CFR 501.33 and 501.34). The Group's *et al.* request for a hearing

regarding petitions for exemption and proposed order noticed at 45 FR 18423, published on March 21, 1980 contained nothing additional or new as compared with their previous request. Consequently, ERA decided to deny their request for a public hearing on these petitions.

Based on the information provided by the petitioners, the listed powerplants are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of low sulfur residual fuel oil.

Statement of Reasons

Because world oil supplies continue to be unstable, there is an urgent need to use these natural resources wisely.

To the extent that near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioners have demonstrated that these powerplants, for which they are requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioners have also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of low sulfur residual fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioners' utility systems, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioners have met the eligibility criteria set out in § 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions from the effective date of this Decision and Order until December 8, 1982. These exemptions will be automatically extended for an additional period upon written acceptance by ERA of a system-wide fuel conservation plan. However, a temporary public interest exemption, including all extensions and the period during which the petitioners were allowed to burn gas while their petitions were pending, may not exceed the maximum five year period authorized by the Act, or extend beyond June 30, 1985. The maximum durations of the temporary public interest exemptions granted by this Order are listed in the table on the first page. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following its publication in the **Federal Register** (December 16, 1980) in accordance with Section 702(a) of FUA. However, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by the exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as each petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in each exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan. If the petitioner has received temporary public interest exemptions under previous orders for other powerplants within his utility system, the first granted exemption order will establish the due date for the system-wide fuel conservation plant.

(3) If the petitioner seeks to have the exemptions extended, the fuel conservation plan must cover both the initial period covered by these temporary exemptions and the additional period to the maximum duration date, including the means by which the petitioner will measure progress in implementing this plan.

(4) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1981, a report on progress achieved in implementing the pertinent fuel conservation plan.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligations the utility may have to its customers.

Issued in Washington, D.C., on October 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-32443 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act Issuance of an Order Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on October 14, 1980, it issued an order granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, 10 CFR 501.68 and 10 CFR Part 508, from the prohibitions of Sections 301(a) (2) and (3) of the Act to the following powerplants in order to displace low sulfur residual fuel oil:

Docket No.	Petitioner	Generating station	Powerplant identification
50412-1594-12-41	Cambridge Electric Light Company	Blackstone Street	No. 12.
50499-6516-01-41	Central Telephone and Utilities Corp., Southern Colorado Power Division.	Rocky Ford	No. 1.

Petitions were received and filed with ERA, pursuant to 10 CFR Part 508 (Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) for temporary public interest exemptions for the use of natural gas as a primary energy source.

A notice of the petitions and the proposed order granting these temporary exemptions was published in the **Federal Register** on July 21, 1980 (45 FR 48684). This notice presented an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order. All comments that referred to specific petitions were supportive of them.

The Process Gas Consumer's Group, the American Iron and Steel Institute and the Georgia Industrial Group requested a hearing. These same persons requested a hearing regarding previously filed similar petitions for exemption under the Special Rule. In that previous proceeding, the hearing which was convened pursuant to the request of Process Gas Consumer's Group *et al.*, was dismissed upon the ground that the Group *et al.* had failed to demonstrate the requisite interest as interested persons (*see*, Section 701 of FUA and 10 CFR 501.33 and 501.34). The Group's *et al.* request for a hearing regarding petitions for exemption and proposed order noticed at 45 FR 18423, published on March 21, 1980 contained nothing additional or new as compared with their previous request. Consequently, ERA decided to deny their request for a public hearing on these petitions.

These temporary exemptions will allow the above-named units to burn natural gas, notwithstanding the prohibitions of Sections 301(a)(2) and (3) of FUA, to displace fuel oil.

The order granting these temporary exemptions shall become effective sixty calendar days following publication in the **Federal Register** (December 16, 1980) in accordance with Section 702(a) of FUA. The owners of the above-mentioned powerplants have been sent the Decision and Order by certified mail.

The order is set forth following this notice. These temporary exemptions shall be in effect, subject to terms and conditions stated in the order, for a period of two years. The temporary exemptions may be extended for an additional period upon written acceptance by ERA of a system-wide fuel conservation plan.

However, a temporary public interest exemption, including all extensions and the period during which the petitioners were allowed to burn gas while their petitions were pending, may not exceed the statutory maximum five year period authorized by the Act, or extend beyond June 30, 1985. The temporary public interest exemptions granted by the Decision and Order may be terminated by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligations the utility may have to its customers.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. James W. Workman, Acting Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4268.

Issued in Washington, D.C., on October 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 32440 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act; Issuance of an Order Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on October 14, 1980, it issued an order granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, 10 CFR 501.68 and 10 CFR Part 508, from the prohibitions of Sections 301(a) (2) and (3) of the act to the following powerplants in order to displace high sulfur residual fuel oil:

Docket No.	Petitioner	Generating station	Powerplant identification
50318-3628-02-41	Brazos Electric Power Cooperative, Inc	R. W. Miller	No. 2.
50499-9164-03-41	Central Telephone and Utilities Corp., Western Power Division.	Judson Large	No. 3.
50499-9164-04-41			No. 4.
50499-9165-01-41		Arthur Mullergren	No. 1.
50499-9165-02-41			No. 2.
50499-9165-03-41			No. 3.
50781-1822-05-41	City of Detroit, Public Lighting Department	Mistersky Power Station	No. 5.
50781-1822-06-41			No. 6.
50781-1822-07-41			No. 7.
50782-9077-14-41	Detroit Edison	Delray	No. 1.
50782-9077-15-41			No. 7.
50782-9077-16-41			No. 8.
50782-9077-17-41			No. 9.
50782-9077-18-41			No. 10.
50782-9077-19-41			No. 11.
50782-9077-20-41			No. 12.
51150-2242-01-41	City of Grand Island Utility Department	Pine Street	No. 1.
51150-2241-01-41		Burdick	No. 1.
51150-2241-02-41			No. 2.
51150-2241-03-41			No. 3.
51748-1244-04-41	Kansas Gas & Electric Company	Ripley	No. 4.
51748-1244-05-41			No. 5.
51479-1248-01-41	The Kansas Power & Light Company	Hutchinson	No. 1.
51479-1248-02-41			No. 2.
51479-1248-03-41			No. 3.
52000-1616-01-41	New Bedford Gas & Edison Light Company	Cannon Street	No. 1.
52000-1616-02-41			No. 2.
52000-1616-03-41			No. 3.
65016-9152-04-41	Owatonna Public Utilities	Owatonna Power Plant	No. 4.
65016-9152-05-41			No. 5.
65016-9152-06-41			No. 6.
52564-8068-51-41	Salt River Project	Santan	CC 1.
52564-8068-52-41			CC 2.
52564-8068-53-41			CC 3.
52564-8068-54-41			CC 4.
52658-2330-01-41	Sierra Pacific Power Company	Fort Churchill	No. 1.
52658-2330-02-41			No. 2.
52658-2336-01-41		Tracy	No. 1.
52658-2336-02-41			No. 2.
52658-2336-03-41			No. 3.
53256-3517-04-41	West Texas Utilities Company	Abilene	No. 4.
53256-3518-04-41		Concho	No. 4.
53256-4938-01-41		Fort Phantom	No. 1.
53256-4938-02-41			No. 2.
53256-3521-01-41		Lake Pauline	No. 1.
53256-3521-02-41			No. 2.
53256-3523-01-41		Oak Creek	No. 1.
53256-3524-01-41		Paint Creek	No. 1.
53256-3524-02-41			No. 2.
53256-3524-03-41			No. 3.

Petitions were received and filed with ERA, pursuant to 10 CFR Part 508 (Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) for temporary public interest exemptions for the use of natural gas as a primary energy source.

A notice of the petitions and the proposed order granting these temporary exemptions was published in the **Federal Register** on July 21, 1980 (45 FR 48684). This notice prsented an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order. All comments that referred to specific petitions were supportive of them.

The Process Gas Consumer's Group, the American Iron and Steel Institute and the Georgia Industrial Group requested a hearing. These same persons requested a hearing regarding previously filed similar petitions for exemption under the Special Rule. In that previous proceeding, the hearing which was convened pursuant to the request of Process Gas Consumer's Group *et al.*, was dismissed upon the ground that the Group *et al.* had failed to demonstrate the requisite interest as interested persons (*see*, Section 701 of FUA and 10 CFR 501.33 and 501.34). The Group's *et al.* request for a hearing regarding petitions for exemption and proposed order noticed at 45 FR 18423, published on March 21, 1980 contained nothing additional or new as compared with their previous request. Consequently, ERA decided to deny their request for a public hearing on these petitions.

These temporary exemptions will allow the above-named units to burn natural gas, notwithstanding the prohibitions of Sections 301(a)(2) and (3) of FUA, to displace high sulfur residual fuel oil.

The order granting these temporary exemptions shall become effective sixty calendar days following publication in the **Federal Register** (December 16, 1980) in accordance with Section 702(a) of FUA. The owners of the above-mentioned powerplants have been sent the Decision and Order by certified mail.

The order is set forth following this notice. These temporary exemptions shall be in effect, subject to terms and conditions stated in the order, until December 7, 1981. Upon the request of the petitioners, these exemptions may be extended for an additional period at the discretion of ERA. However, a temporary public interest exemption, including all extensions and the period during which the petitioners were allowed to burn gas while their petitions were pending, may not exceed the statutory maximum five year period authorized by the Act, or extend beyond June 30, 1985. The temporary public interest exemptions granted by the Decision and Order may be terminated by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligations the utility may have to its customers.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B–110, 2000 M Street, NW., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. James W. Workman, Acting Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–4268.

Issued in Washington, D.C., on October 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-32442 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act Issuance of an Order Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on October 14, 1980, it issued an order granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, 10 CFR 501.68 and 10 CFR Part 508, from the gas use prohibitions of Sections 301(a) (2) and (3) of the Act to the following powerplants in order to displace middle distillate fuel oil:

Docket No.	Owner	Generating station	Powerplant identification
50135-3548-02-41	City of Austin	Decker	No. 2.
50318-3628-03-41	Brazos Electric Power Cooperative, Inc	R. W. Miller	No. 3.
50499-0460-04-41	Central Telephone And Utilities Corp., Southern Colorado Power Division.	Pueblo	No. 4.
50499-0460-05-41			No. 5.
50499-0460-06-41			No. 6.
61029-9155-21-41	City of Cleveland	West 41st Street	GT 1.
61029-9155-22-41			GT 2.
61029-9154-23-41		Collingwood	GT 3.
50643-0877-31-41	Commonwealth Edison	Lombard	CT 31-1.
50643-0877-32-41			CT 31-2.
50643-0877-33-41			CT 32-1.
50643-0877-34-41			CT 32-2.
50643-0877-35-41			CT 33-1.
50643-0877-36-41			CT 33-2.
50643-0875-31-41		Joliet	CT 31-1.
50643-0875-32-41			CT 31-2.
50643-0875-33-41			CT 31-3.
50643-0875-34-41			CT 31-4.
50643-0875-35-41			CT 32-1.
50643-0875-36-41			CT 32-2.
50643-0875-37-41			CT 32-3.
50643-0875-38-41			CT 32-4.
50643-0866-31-41		Calumet	CT 31-1.
50643-0866-32-41			CT 31-2.
50643-0866-33-41			CT 31-3.
50643-0866-34-41			CT 31-4.
50643-0866-35-41			CT 33-1.
50643-0866-36-41			CT 33-2.
50643-0866-37-41			CT 33-3.
50643-0866-38-41			CT 33-4.
50643-0866-39-41			CT 34-1.
50643-0866-40-41			CT 34-2.
50643-0866-41-41			CT 34-3.
50643-0866-42-41			CT 34-4.
50643-0870-31-41		Electric Junction	CT 31-1.
50643-0870-32-41			CT 31-2.
50643-0870-33-41			CT 31-3.

Docket No.	Owner	Generating station	Powerplant identification
50643-0870-34-41			CT 31-4.
50643-0870-35-41			CT 32-1.
50643-0870-36-41			CT 32-2.
50643-0870-37-41			CT 32-3.
50643-0870-38-41			CT 32-4.
50643-0870-39-41			CT 33-1.
50643-0870-40-41			CT 33-2.
50643-0870-41-41			CT 33-3.
50643-0870-42-41			CT 33-4.
50782-1726-15-41	Detroit Edison	Conner's Creek	No. 13.
50904-6223-21-41	Empire District Electric Company	Empire Energy Center	CT 1.
50904-6223-22-41			CT 2.
51121-0377-58-41	City of Glendale California Public Service Department.	Grayson Power Plant	CC 8.
51381-8065-21-41	Idaho Power Company	Wood River	CT 1.
51388-9006-21-41	Imperial Irrigation District	Rockwood	CT 1.
51549-1443-03-41	City of Lafayette Utilities	Doc Bonin	No. 3.
54020-3112-21-41	Metropolitan Edison	Orrtanna	CT 1.
54020-3109-21-41		Hamilton	CT 1.
54020-3114-21-41		Shawnee	CT 1.
54020-3111-21-41		Mountain	CT 1.
54020-3111-22-41			CT 2.
54020-3110-21-41		Hunterstown	CT 1.
54020-3110-22-41			CT 2.
54020-3110-23-41			CT 3.
52370-3043-22-41	Portland General Electric	Bethel	CT 2.
52370-9138-51-41		Beaver	CC 1.
52370-9138-52-41			CC 2.
52370-9138-53-41			CC 3.
52370-9138-54-41			CC 4.
52370-9138-55-41			CC 5.
52370-9138-56-41			CC 6.
52721-0329-53-41	Southern	Cool Water	CC 3.
52721-0329-54-41	California Edison Company		CC 4.
53256-3524-04-41	West Texas Utilities Company	Paint Creek	No. 4.
53256-3526-06-41		Rio Pecos	No. 6.

Petitions were received and filed pursuant to 10 CFR Part 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) with ERA for temporary public interest exemptions for the use of natural gas as a primary energy source.

A notice of the petitions and a proposed order granting these temporary exemptions was published in the **Federal Register** on July 21, 1980, (45 FR 48684). This notice presented an opportunity for public comments and for interested persons to request a hearing relating to the petitions and the proposed order. All comments that referred to specific petitions were supportive of them.

The Process Gas Consumer's Group, the American Iron and Steel Institute and the Georgia Industrial Group requested a hearing. These same persons requested a hearing regarding previously filed similar petitions for exemption under the Special Rule. In that previous proceeding, the hearing which was convened pursuant to the request of Process Gas Consumer's Group *et al.*, was dismissed upon the ground that the Group *et al.* had failed to demonstrate the requisite interest as interested persons (*see*, Section 701 of FUA and 10 CFR 501.33 and 501.34). The Group's *et al.* request for a hearing regarding petitions for exemption and proposed order noticed at 45 FR 18423, published on March 21, 1980 contained nothing additional or new as compared with their previous request. Consequently, ERA decided to deny their request for a public hearing on these petitions.

These temporary exemptions will allow the above-named units to burn natural gas, notwithstanding the prohibitions of Sections 301(a)(2) and (3) of FUA, to displace middle distillate fuel oil.

The order granting these temporary exemptions shall become effective sixty calendar days following its publication in the **Federal Register**, (December 16, 1980) in accordance with Section 702(a) of FUA. The owners of the above-named powerplants have been sent the Decision and Order by certified mail.

The order is set forth following this notice. These temporary exemptions shall be in effect, subject to the terms and conditions stated in the order, for a period of five years including the period during which the petitioners were allowed to burn gas while their petitions were pending, but not to extend beyond June 30, 1985. The temporary exemptions may be terminated by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

ERA's grant of these temporary public interest exemptions does not relieve an existing powerplant from compliance with any rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any State regulatory agency or from any obligation the utility may have to its customers.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, NW., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. James W. Workman, Acting Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, NW., Washington, DC. 20461, (202) 653-4268.

Issued in Washington, D.C., on October 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-32444 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Time Oil Co.'s Application for Redirection of Product

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application withdrawal.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on September 23, 1980, Time Oil Company (Time) withdrew its application for redirection of product to its base period customers in the State of Hawaii, which the firm filed on June 20, 1980. Time reserves its right to refile an application at a later date.

FOR FURTHER INFORMATION CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104-I, 2000 M Street, NW., Washington, DC 20461, Telephone: (202) 653-3751;

Joel M. Yudson, Office of General Counsel, Room 6A-127, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, D.C., on the 10th day of October 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-32441 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 296]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 9, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
					OKLAHOMA CORPORATION COMMISSION			
*A & P OIL CO INC					RECEIVED: 09/26/80 JA: OK			
*8058668	05413	3507100000	103		KAMPSCHROEDER #1	UNNAMED	14.5	CITIES SERVICE GAS C
*BLAIK OIL COMPANY					RECEIVED: 09/26/80 JA: OK			
*8058673	05241	3504722050	103		PETERMAN UNIT #4	SOONER TREND	67.0	EXXON COMPANY USA
8058659	03104	3500320127	108		TRUITT #1	SOONER TREND	19.0	AMINOIL USA INC
*CENTURY OIL & GAS CORP					RECEIVED: 09/26/80 JA: OK			
8058662	02855	3513721870	103		REICH #1 DTC #137-55647	NELLIE	175.0	LONE STAR GAS CO
*CONOCO INC					RECEIVED: 09/26/80 JA: OK			
8058664	05441	3501121019	102		GEPNER NO 1	SQUAW CREEK	70.0	MICHIGAN-WISCONSIN P
*CROUCH PETROLEUM CO					RECEIVED: 09/26/80 JA: OK			
*8058658	04495	3505500000	108		KURTEN #1 055-52896	BLOOMINGTON	1.0	DAMSON OIL CORP
*CROUCH PETROLEUM COMPANY					RECEIVED: 09/26/80 JA: OK			
*8058657	04496	3505500000	108		HOOD #1 055-49476	BLOOMINGTON	2.0	DAMSON OIL CORP
*DALCO PETROLEUM INC					RECEIVED: 09/26/80 JA: OK			
8058675	04844	3507322277	103		HARRISON #1	SOONER TREND	183.0	CITIES SERVICE GAS C
8058674	04855	3507300000	103		HOMIER #1	SOONER TREND	72.0	CITIES SERVICE GAS C
*EDWIN L COX					RECEIVED: 09/26/80 JA: OK			
8058669	05403	3501700000	108		HUNSUCKER #1	SHO-VEL-TUM	6.0	LONE STAR GAS CO
*ENNEX PRODUCTION COMPANY					RECEIVED: 09/26/80 JA: OK			
8058666	05428	3501721400	103		GRIFFIN #1	EAST GEARY	513.0	DELHI GAS PIPELINE C
*HELMERICH & PAYNE INC					RECEIVED: 09/26/80 JA: OK			
8058665	05440	3504326978	103		GORE NO 1-36	SOUTH SEILLING	548.0	MICHIGAN WISCONSIN P
*JET OIL COMPANY					RECEIVED: 09/26/80 JA: OK			
8058672	05260	3508320603	103		ANNA PRIESS #2	S E RUSSELL	4.0	SERVICE DRILLING CO
*KRUMME OIL CO					RECEIVED: 09/26/80 JA: OK			
8058667	05415	3511120889	108		ROSE NO 2	BEGGS	10.0	PHILLIPS PETROLEUM C
*L G WILLIAMS OIL COMPANY INC					RECEIVED: 09/26/80 JA: OK			
8058676	04668	3504320901	103		GORE 3-1	PUTNAM	490.0	PANHANDLE EASTERN PI
*MOBIL OIL CORP					RECEIVED: 09/26/80 JA: OK			
8058663	02622	3501900000	108		G T POWERS #6	SHO VEL TUM	4.0	LONE STAR GAS CO
*NOVA ENERGY CORPORATION					RECEIVED: 09/26/80 JA: OK			
8058670	05352	3501720814	102		VASICEK #1-36	N E UNION CITY	334.7	PHILLIPS PETROLEUM C
8058671	05351	3501720913	102		WHITE #1-19	WEST YUKON	136.3	PHILLIPS PETROLEUM C
*RANKIN & CARTER					RECEIVED: 09/26/80 JA: OK			
8058661	02853	3504900000	103	D	FREEMAN #1	HOOVER	1.2	LONE STAR GAS CO
*SHAR-ALAN OIL CO					RECEIVED: 09/26/80 JA: OK			
8058678	04354	3509321658	103		BOEHS #1	E FAIRVIEW	47.0	PHILLIPS PETROLEUM C
*TENNECO OIL CO					RECEIVED: 09/26/80 JA: OK			
8058660	03073	3509321174	108		BYFIELD 2-25	CHEYENNE VALLEY	11.3	PHILLIPS PETROLEUM C
*WILLIS EXPLORATION INC					RECEIVED: 09/26/80 JA: OK			
8058677	04662	3501721248	103		MCINTYRE #1	N E MUSTANG	612.0	MOBIL OIL CORP

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION							
*AMERICAN PUBLIC ENERGY CO				RECEIVED: 09/26/80 JA: TX			
8058685	11837	4229530615	103	H C BRILLHART #1-L	KIOWA CREEK (CLEVELAND)	240.0	NORTHERN NATURAL GAS
*AMMEX PETROLEUM CORP				RECEIVED: 09/26/80 JA: TX			
8058841	21475	4205100000	103	NAN UNIT #1 RRC 12750	GIDDINGS (AUSTIN CHALK)	231.0	CLAJON GAS CO
8058842	21476	4205100000	103	NEIMANN UNIT #1 RRC #12784	GIDDINGS (AUSTIN CHALK)	347.0	CLAJON GAS CO
*AMOCO PRODUCTION CO				RECEIVED: 09/26/80 JA: TX			
8058894	21746	4230330104	103	ANTON IRISH CLEARFORK UNIT #355	ANTON IRISH	1.0	PIONEER NATURAL GAS
8058893	21747	4230330103	103	ANTON IRISH CLEARFORK UNIT #356	ANTON IRISH	3.6	PIONEER NATURAL GAS
8058886	21741	4218930145	103	ANTON IRISH CLEARFORK UNIT #358	ANTON IRISH	7.3	PIONEER NATURAL GAS
8058892	21746	4218930144	103	ANTON IRISH CLEARFORK UNIT #359	ANTON IRISH	3.0	PIONEER NATURAL GAS
8058891	21745	4218930134	103	ANTON IRISH CLEARFORK UNIT #360	ANTON IRISH	24.5	PIONEER NATURAL GAS
8058890	21744	4218930148	103	ANTON IRISH CLEARFORK UNIT #361	ANTON IRISH	10.2	PIONEER NATURAL GAS
8058889	21743	4218930138	103	ANTON IRISH CLEARFORK UNIT #363	ANTON IRISH	3.2	PIONEER NATURAL GAS
8058887	21742	4218930137	103	ANTON IRISH CLEARFORK UNIT #366	ANTON IRISH	13.1	PIONEER NATURAL GAS
8058899	21753	4218930140	103	ANTON IRISH CLEARFORK UNIT #368	ANTON IRISH	2.2	PIONEER NATURAL GAS
8058900	21754	4218930136	103	ANTON IRISH CLEARFORK UNIT #369	ANTON IRISH	1.5	PIONEER NATURAL GAS
8058895	21749	4218930151	103	ANTON IRISH CLEARFORK UNIT #371	ANTON IRISH	18.2	PIONEER NATURAL GAS
8058898	21752	4218930153	103	ANTON IRISH CLEARFORK UNIT #373	ANTON IRISH	21.0	PIONEER NATURAL GAS
8058897	21751	4218930156	103	ANTON IRISH CLEARFORK UNIT #375	ANTON IRISH	15.3	PIONEER NATURAL GAS
8058814	21621	4218930154	103	ANTON IRISH CLEARFORK UNIT #377	ANTON IRISH	3.3	PIONEER NATURAL GAS
8058868	21622	4218930148	103	ANTON IRISH CLEARFORK UNIT #378	ANTON IRISH	1.1	PIONEER NATURAL GAS
8058813	21620	4218930147	103	ANTON IRISH CLEARFORK UNIT #379	ANTON IRISH	12.0	PIONEER NATURAL GAS
8058870	21624	4218930155	103	ANTON IRISH CLEARFORK UNIT #380	ANTON IRISH	8.4	PIONEER NATURAL GAS
8058869	21623	4218930158	103	ANTON IRISH CLEARFORK UNIT #381	ANTON IRISH	8.8	PIONEER NATURAL GAS
8058812	21619	4227930062	103	ANTON IRISH CLEARFORK UNIT #382	ANTON IRISH	1.1	PIONEER NATURAL GAS
8058809	21616	4227930065	103	ANTON IRISH CLEARFORK UNIT #384	ANTON IRISH	1.8	PIONEER NATURAL GAS
8058811	21618	4227930051	103	ANTON IRISH CLEARFORK UNIT #386	ANTON IRISH	7.7	PIONEER NATURAL GAS
8058810	21617	4227930054	103	ANTON IRISH CLEARFORK UNIT #388	ANTON IRISH	1.0	PIONEER NATURAL GAS
*8058873	21627	4207931084	103	C S DEAN C #19	SLAUGHTER	14.3	AMOCO PRODUCTION CO
*8058874	21630	4207931083	103	C S DEAN C #22	SLAUGHTER	4.2	AMOCO PRODUCTION CO
*8058871	21625	4207931041	103	C S DEAN C #24	SLAUGHTER	3.9	AMOCO PRODUCTION CO
8058911	21894	4213532844	103	DAVID FASKIN AM #2	FASKEN S/FUSSELMAN/	65.3	PIONEER NATURAL GAS
8058875	21631	4221932774	103	ELLWOOD A #145	SMYER N (CANYON)	0.9	EL PASO NATURAL GAS
8058791	21108	4216730644	103	GILLOCK SOUTH #91	GILLOCK SOUTH	100.0	AMOCO GAS CO
*8058700	14275	4203931186	103	H M SHRYOCK NO 4	HASTINGS WEST	102.0	AMOCO GAS CO
8058718	16999	4229530624	103	J A GEX B #2	MAMMUTH CREEK NORTH	300.0	TRANSWESTERN PIPELIN
8058793	21110	4216130553	102	J E SIMS NO 1	CHENEYBORO (COTTON VALLE	18.3	LONE STAR GAS CO
8058790	21050	4217530573	103	L W OCONNOR A #64	LIVE OAK LAKE/5100/	11.7	AMOCO GAS CO
8058872	21626	4210532581	103	MARGARET F ALFORD A #2	WHITEHEAD/STRAWN/	91.3	LONE STAR GAS CO
8058876	21644	4213532817	103	NORTH COWDEN UNIT #1032	COWDEN NORTH	7.7	PIONEER NATURAL GAS
8058896	21750	4250131776	103	OWNBY (UPPER CLFORK) UNIT #11-2	OWNBY (UPPER CLEARFORK)	24.5	NORTHERN NATURAL GAS
8058792	21109	4216730641	103	SOUTH GILLOCK UNIT #93	GILLOCK SOUTH	27.4	AMOCO GAS CO
8058910	21893	4203330427	103	T J GOOD A #38	JO MILL/SPRAYBERRY/	21.5	GETTY OIL CO
*ARCO OIL AND GAS COMPANY				RECEIVED: 09/26/80 JA: TX			
8058785	21031	4200332149	103	EMMA COWDEN #74	EMMA	10.0	EL PASO NATURAL GAS
8058757	21030	4200332148	103	EMMA COWDEN #75	EMMA	10.0	EL PASO NATURAL GAS
8058787	21033	4200332172	103	EMMA COWDEN #76	EMMA	9.0	EL PASO NATURAL GAS
8058786	21032	4200332174	103	EMMA COWDEN #78	EMMA	10.0	EL PASO NATURAL GAS
8058879	21665	4249531091	103	J B WALTON A #16	KEYSTONE (COLBY)	16.2	SID RICHARDSON CARBO

JD NO	JA DAT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
*8058855	21451	4250131754	103	WILLARD UNIT #3-B	WASSON	51,1	SHELL OIL COMPANY
*8058854	21449	4250131759	103	WILLARD UNIT #31-C	WASSON	18,3	SHELL OIL COMPANY
*8058856	21455	4250131755	103	WILLARD UNIT #32-C	WASSON	10,0	SHELL OIL COMPANY
*ARKLA EXPLORATION COMPANY				RECEIVED: 09/26/80 JA: TX			
8058688	06410	4241930278	103	LAWRENCE T FRANKS #1-T	STOCKMAN (COTTON VALLEY)	47,0	ARKANSAS LOUISIANA G
8058755	16453	4236530767	103	WILLIAMSON #1	CARTHAGE (COTTON VALLEY)	363,0	ARKANSAS LOUISIANA G
*ART MACHIN & ASSOCIATES INC				RECEIVED: 09/26/80 JA: TX			
8058780	18515	4220330652	103	E N SMITH JR #1	WASKOM (TRAVIS PEAK 6150	130,0	ARKANSAS LOUISIANA G
*B M HESTER				RECEIVED: 09/26/80 JA: TX			
8058906	21781	4237330435	103	KAVANAUGH & COLLINS 1-A	LIVINGSTON	71,0	
*C & K PETROLEUM INC				RECEIVED: 09/26/80 JA: TX			
8058731	17577	4243130800	103	GUNTER 25 NO 1	CONGER (PENN)	274,0	
*CABOT CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058717	16950	4223330635	103	MERCHANT IRA C #7	PANHANDLE HUTCHINSON COU	20,0	PANHANDLE EASTERN PI
8058750	16949	4223330698	103	MERCHANT IRA C #8	PANHANDLE HUTCHINSON COU	24,0	PANHANDLE EASTERN PI
*CASHCO ENERGY CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058823	21586	4218500000	102	W M GRANT NO 1	IOLA (SUBCLARKSVILLE) FI	547,0	LONE STAR GAS CO
8058823	21586	4218500000	103	W M GRANT NO 1	IOLA (SUBCLARKSVILLE) FI	547,0	LONE STAR GAS CO
*CHAMPLIN PETROLEUM COMPANY				RECEIVED: 09/26/80 JA: TX			
8058741	18044	4236500000	103	CARTHAGE GAS UNIT #1-3	CARTHAGE	0,0	TENNESSEE GAS PIPELI
*CHEVRON U S A INC				RECEIVED: 09/26/80 JA: TX			
8058845	21540	4249531071	103	H E LOVETT 7C	KEYSTONE	75,0	TRANSWESTERN PIPELIN
8058844	21537	4249531067	103	W E BAIRD 13-69C	KEYSTONE	73,0	TRANSWESTERN PIPELIN
8058716	16138	4235531499	103	W L FOSTER 5 #13	IATAN EAST HOWARD	7,3	GETTY OIL CO
*CITIES SERVICE COMPANY				RECEIVED: 09/26/80 JA: TX			
8058762	20270	4208931089	102	HEINSOHN A #1 OIL UNIT	DUBINA (SOUTH) 9080	125,0	UNITED GAS PIPE LINE
*COLORADO INTERSTATE GAS CO				RECEIVED: 09/26/80 JA: TX			
8058771	18849	4237530062	108	BIVINS 52R	WEST PANHANDLE (RED CAVE	13,0	COLORADO INTERSTATE
*CONOCO INC				RECEIVED: 09/26/80 JA: TX			
8058921	22093	4249500000	108	BROWN-ALTMAN #2 ID #07716	EMPEROR-WEINER	0,1	PHILLIPS PETROLEUM C
8058846	21550	4238900000	108	FORD GERALDINE UNIT #308 ID #21021	GERALDINE FORD	10,5	EL PASO NATURAL GAS
8058917	22041	4222700000	108	G O CHALK C #15 ID #02687	HOWARD GLASSCOCK	0,2	PHILLIPS PETROLEUM C
8058919	22077	4222700000	108	G O CHALK E #14 ID #02689	HOWARD-GLASSCOCK	0,4	PHILLIPS PETROLEUM C
8058918	22075	4213532767	108	H S FOSTER #16 ID #08302	COWDEN SOUTH	0,2	PHILLIPS PETROLEUM C
8058885	21683	4200300000	108	MUNGER-NIX #18 ID #10694	FUHRMAN-MASCHO	0,8	PHILLIPS PETROLEUM C
8058883	21680	4200300000	108	W FUHRMAN-MASCHO UNIT #53 ID #21220	FUHRMAN-MASCHO	0,3	PHILLIPS PETROLEUM C
8058920	22092	4200300000	108	W T FORD #22 ID #01665	FUHRMAN-MASCHO	5,3	PHILLIPS PETROLEUM C
8058884	21682	4200300000	108	W T FORD #28 ID #01630	FUHRMAN-MASCHO	0,2	PHILLIPS PETROLEUM C
*COOK EXPLORATION CO				RECEIVED: 09/26/80 JA: TX			
8058764	20543	4218300000	103	CULPEPPER NO 3	WILLOW SPRINGS-MACKEY (T	540,0	ARKANSAS LOUISIANA G
*DAVID ALBERT OIL & GAS				RECEIVED: 09/26/80 JA: TX			
8058802	21239	4223700000	108	CRANFORD 1B	JACK COUNTY REGULAR (GAS	8,0	CITIES SERVICE CO
8058797	21271	4223700000	108	T J YOWELL	YOWELL (MARBLE FALLS)	5,0	CITIES SERVICE CO
*DELTA DRILLING CO				RECEIVED: 09/26/80 JA: TX			
8058782	18720	4243500000	108	SHURLEY #2	SAWYER (CANYON SAND)	21,9	NORTHERN NATURAL GAS
*DEMINEX US OIL COMPANY				RECEIVED: 09/26/80 JA: TX			
8058832	21558	4217900000	108	LOVETT NO 4 RRC LSE #00327	PANHANDLE (GRAY COUNTY)	5,0	PHILLIPS PETROLEUM C
8058831	21556	4217900000	108	LOVETT NO 6 RRC LSE #00327	PANHANDLE (GRAY COUNTY)	5,0	PHILLIPS PETROLEUM C
8058830	21555	4217900000	108	LOVETT NO 7 RRC LSE #00327	PANHANDLE (GRAY COUNTY)	5,0	PHILLIPS PETROLEUM C
8058847	21553	4217900000	108	LOVETT NO 9 RRC LSE #00327	PANHANDLE (GRAY COUNTY)	5,0	PHILLIPS PETROLEUM C
*DFC OIL AND GAS CO				RECEIVED: 09/26/80 JA: TX			
8058682	10854	4208700000	103	EDGAR WISCHKAEMPER #1	PANHANDLE EAST	100,0	EL PASO NATURAL GAS

JD NO	JA IKI	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
=DIAMOND SHAMROCK CORPORATION				RECEIVED: 09/26/80 JA: TX			
*8058696	13611	4234130517	103	ROBERTSUN C NO 7	PANHANDLE WEST	80,0	NORTHERN NATURAL GAS
=DONALD C SLAWSON				RECEIVED: 09/26/80 JA: TX			
8058774	19263	4221131158	103	GARVER #1 UNIT	CANADIAN (MORROW UPPER)	1500,0	NORTHERN NATURAL GAS
=DURCHESTER EXPLORATION INC				RECEIVED: 09/26/80 JA: TX			
8058783	18723	4213130724	103	TERRY 15 NO 1 RRC ID #84261	CONGER (PENN)	548,0	ESPERANZA PIPELINE C
8058834	21562	4243130813	103	TERRY 16 NO 3 RRC ID #85934	CONGER (PENN)	180,0	ESPERANZA PIPELINE C
8058772	18853	4243130796	103	TERRY 17 NO 1 RRC ID #25601	W A M FUSSELMAN	161,0	ESPERANZA PIPELINE C
8058833	21561	4243130795	103	WESTBROOK 22 NO 1 RRC ID #25726	CONGER (PENN)	180,0	ESPERANZA PIPELINE C
=DYNE OIL & GAS INC				RECEIVED: 09/26/80 JA: TX			
8058824	21588	4223330738	103	SAMUEL #2 RRC NO 04444	PANHANDLE=HUTCHINSON COU	0,0	PHILLIPS PETROLEUM C
=ENERGY RESOURCES OIL & GAS CORP				RECEIVED: 09/26/80 JA: TX			
8058681	09036	4237176489	103	MARY BAKER #1	PAPPY (CANYUN)	150,0	NORTHERN NATURAL GAS
=ENSERCH EXPLORATION INC				RECEIVED: 09/26/80 JA: TX			
8058690	07433	4223731943	103	ALLISON YATES NO 3	BOUNSVILLE (BCG)	78,0	LONE STAR GAS CO
=EXXON CORPORATION				RECEIVED: 09/26/80 JA: TX			
*8058781	18546	4200331919	103	FULLERTON CLFK UNIT #2829	FULLERTON	28,0	PHILLIPS PETROLEUM C
8058766	20991	4226130474	103	MRS S K EAST 102=F (09488)	RITA (9=B&C II A)	100,0	NATURAL GAS PIPELINE
8058835	21569	4216531604	103	ROBERTSUN CLFK UNIT #2902	ROBERTSON N (CLFK 7100)	16,0	PHILLIPS PETROLEUM C
8058836	21571	4216531681	103	ROBERTSUN CLFK UNIT #7502	ROBERTSON N (CLFK 7100)	9,9	PHILLIPS PETROLEUM C
=FORA CO				RECEIVED: 09/26/80 JA: TX			
8058705	14334	4206500000	108	F E PERCIVAL NO 3 (25725)	PANHANDLE WEST	10,0	GETTY OIL CO
8058702	14330	4206500000	108	J L NOEL NO 1 (25723)	PANHANDLE WEST	4,0	GETTY OIL CO
8058703	14332	4206500000	108	J L NOEL NO 3 (25724)	PANHANDLE WEST	1,5	GETTY OIL CO
8058704	14333	4206500000	108	PERCIVAL =A= (00032) NO 2	PANHANDLE CARSON COUNTY	4,0	GETTY OIL CO
=FOREST OIL CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058843	21511	4247932531	102	VAQUILLAS RANCH CO LTD NO 2	GATO CREEK FIELD	500,0	E I DU PONT DE NEMOU
=FRIEMEL & CARPENTER				RECEIVED: 09/26/80 JA: TX			
8058905	21778	4200331795	103	W T FORD NO 9 83593	FUHRMAN=MASCHO (YATES)	109,8	PHILLIPS PETROLEUM C
=GALAXY OIL COMPANY				RECEIVED: 09/26/80 JA: TX			
8058714	15927	4223300000	108	HUBER RILEY I #1= 01669	PANHANDLE FIELD	10,0	J M HUBER CORP
=GETTY OIL COMPANY				RECEIVED: 09/26/80 JA: TX			
8058729	17559	4235330708	103	LAKE TRAMMEL UNIT #95	LAKE TRAMMEL W (CANYON)	9,0	WEST LAKE NATURAL GA
8058784	18728	4236500000	103	SOUTHLAND PAPER A #1	CARTHAGE (COTTON VALLEY)	770,0	DELHI GAS PIPELINE C
8058701	14293	4212300000	102	SUCHER GAS UNIT NO 2	SUCHER (LOWER WILCOX)	440,0	TRUCKLINE GAS CO
8058701	14293	4212300000	103	SUCHER GAS UNIT NO 2	SUCHER (LOWER WILCOX)	440,0	TRUCKLINE GAS CO
=GLENN COPE				RECEIVED: 09/26/80 JA: TX			
8058825	21590	4248300000	108	C T PALMER #1	PANHANDLE EAST	12,0	EL PASO NATURAL GAS
=GREAT WEST OPERATING CO INC				RECEIVED: 09/26/80 JA: TX			
8058888	22198	4223732624	103	L P RICHEY NU 1 LSE NU 19709	JACK COUNTY REGULAR	0,0	TEXAS UTILITIES FUEL
8058758	21012	4223732302	103	M D DAWKINS A NO 1 #85480	DEWEBER (CONGL)	236,0	NATURAL GAS PIPELINE
=GULF ENERGY PRODUCING COMPANY				RECEIVED: 09/26/80 JA: TX			
8058719	17037	4236332137	103	HART RANCH #877-1	MINERAL WELLS N (BIG SAL	216,0	TEXAS UTILITIES FUEL
8058707	14839	4236332078	103	HART RANCH NU 868-1	MINERAL WELLS N (BIG SAL	0,0	
=GULF MINERALS OPERATING CO				RECEIVED: 09/26/80 JA: TX			
8058913	21986	4217531299	103	JACK GUMM DRILLING UT #1 WELL #3	ALBRECHT S (F=4)	100,0	UNITED GAS PIPE LINE
=GULF OIL CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058901	21756	4239330628	103	CHAMBERS F M #2=65	N W MENDOTA/LOWER DOUGLA	9,0	MICHIGAN WISCONSIN P
8058902	21757	4239330625	103	CHAMBERS J S NU 2=66	N W MENDOTA/LOWER DOUGLA	15,0	MICHIGAN WISCONSIN P
*8058880	21667	4249531097	103	KEYSTONE HOLT UNIT NU 9337	KEYSTONE (HOLT)	109,0	CABOT CORP
8058837	21575	4250530545	108	MARTIN=SANCHEZ GU #1 W #1 #75016	J C MARTIN (LOBO)	14,0	TENNESSEE GAS PIPELI
8058838	21576	4250530572	108	MATIAS CUELLAR ET AL NU 1 #74217	UREBENO (LOBO)	8,0	TENNESSEE GAS PIPELI

JD NO	JA DRT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
8058907	21784	4247531800	103	STATE GN NU 1	WAR-WINK S (WOLFCAMP)	21,0	
-M-M OIL CO				RECEIVED: 09/26/80 JA: TX			
8058753	16228	4239131323	103	ELSIE SCHUBERT #1	WILDCAT 5692-5700	0,0	FLORIDA GAS TRANSMIS
8058862	21396	4213133962	103	HERMINIA G ROGERS #1	WILDCAT (3372-77) AKA TH	0,0	VALERO TRANSMISSION
-MNG OIL COMPANY				RECEIVED: 09/26/80 JA: TX			
8058732	17595	4243532158	108	WALLACE 64 #3 82831	SAWYER (CANYON)	1,0	INTRATEX GAS CO
8058733	17597	4243532173	103	WALLACE 77 #4 83257	SAWYER (CANYON)	11,0	INTRATEX GAS CO
8058733	17597	4243532173	108	WALLACE 77 #4 83257	SAWYER (CANYON)	11,0	INTRATEX GAS CO
-MURLEY PETROLEUM CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058752	16186	4236530822	103	ALLIE M HUGG #3-C	BETHANY (TRAVIS PEAK LOW	360,0	TENNESSEE GAS PIPELI
-J A LEONARD				RECEIVED: 09/26/80 JA: TX			
8058730	17565	4205100000	102	COOKSEY NO 1	INEZ JAMESON (NAVARRO A)	9,1	
-J M HUBER CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058839	21578	4223330730	103	PERKY NU 13	PANHANDLE	73,0	COLORADO INTERSTATE
-JOHN L COX				RECEIVED: 09/26/80 JA: TX			
8058807	21308	4246131445	103	ALBERT NU 1 RRC #08067	SPRABERRY (TREND AREA)	10,0	PHILLIPS PETROLEUM C
8058806	21307	4246131468	103	ALICE NO 1 RRC #08040	SPRABERRY (TREND AREA)	8,0	PHILLIPS PETROLEUM C
8058863	21313	4246131420	103	AMACKER 57 #1 RRC #07998	OLD UPLAND (BEND)	25,0	PHILLIPS PETROLEUM C
8058861	21323	4246131428	103	AMERADA-NEAL NU 1 RRC #08000	SPRABERRY (TREND AREA)	10,0	EL PASO NATURAL GAS
8058860	21322	4246131488	103	AMERADA-NEAL NU 2 RRC #08000	SPRABERRY (TREND AREA)	10,0	EL PASO NATURAL GAS
8058805	21306	4238331445	103	CARR 11 NU 1 RRC #08065	SPRABERRY (TREND AREA)	8,0	PHILLIPS PETROLEUM C
8058801	21312	4246131535	103	COWDEN 26 NO 1 RRC #08162	OLD UPLAND (BEND)	25,0	PHILLIPS PETROLEUM C
8058804	21305	4246131548	103	COWDEN 53 NO 1 RRC #08210	SPRABERRY (TREND AREA)	8,0	PHILLIPS PETROLEUM C
8058826	21591	4213533242	103	EDWARDS ESTATE #1 RRC #25703	EDWARDS WEST (CANYON)	2,0	
8058803	21303	4246131425	103	ELAINE #1 RRC #08047	SPRABERRY (TREND AREA)	8,0	PHILLIPS PETROLEUM C
*8058829	21594	4243130713	103	FOSTER #2 RRC #24789	CONGER (PENN)	5,0	VELERO GATHERING CO
*8058815	21595	4243130731	103	FOSTER #3 RRC #24789	CONGER (PENN)	5,0	VALERO GATHERING CO
8058800	21311	4246131423	103	HALFF ESTATE 26 NU 1 RRC #07999	OLD UPLAND (BEND)	8,0	PHILLIPS PETROLEUM C
8058859	21320	4217330993	103	IRMA #1 RRC #25573	SPRABERRY (TREND AREA)	10,0	EL PASO NATURAL GAS
8058866	21316	4231732096	103	MABEE RANCH #1 RRC #25704	LACAFF (DEAN)	10,0	NORTHERN NATURAL GAS
8058865	21315	4231732097	103	MABEE RANCH #2 RRC #25704	LACAFF (DEAN)	10,0	NORTHERN NATURAL GAS
8058864	21314	4231732095	103	MABEE RANCH #3 RRC #25704	LACAFF (DEAN)	10,0	NORTHERN NATURAL GAS
8058858	21319	4217331024	103	MYRL RILEY NU 4 RRC #06423	SPRABERRY (TREND AREA)	7,0	EL PASO NATURAL GAS
8058828	21593	4243130789	103	ROSS FUSTER #1 RRC #25792	CONGER (PENN)	5,0	
8058827	21592	4243130790	103	ROSS FUSTER B #1 RRC #25793	CONGER (PENN)	5,0	
8058799	21310	4232930843	103	SCHARBAUER-BRAUN #1 RRC #25668	PARKS (SPRABERRY)	10,0	MOBIL OIL CORP
8058798	21309	4232930844	103	SCHARBAUER-BRAUN #2 RRC #25668	PARKS (SPRABERRY)	10,0	MOBIL OIL CORP
8058857	21318	4248431388	103	UNIVERSITY 30-B NU 1 RRC #07986	SPRABERRY (TREND AREA)	8,0	EL PASO NATURAL GAS
8058867	21317	4238331394	103	UNIVERSITY 30-B NO 2 RRC #07986	SPRABERRY (TREND AREA)	88,0	EL PASO NATURAL GAS
-JONES CO				RECEIVED: 09/26/80 JA: TX			
8058746	16885	4242931832	103	M G LAW 62 NU 1	LAW (DUFFER)	10,0	WARREN PETROLEUM CO
-KNOX INDUSTRIES INC				RECEIVED: 09/26/80 JA: TX			
8058738	17966	4238331470	103	DIXON #1	SPRABERRY (TREND AREA)	0,0	
8058739	17967	4238331444	103	TURNER C #2	SPRABERRY (TREND AREA)	0,0	NORTHERN NATURAL GAS
-LEAR PETROLEUM EXPLORATION INC				RECEIVED: 09/26/80 JA: TX			
8058779	18493	4239500000	102	J C REAGAN JR #1	CAMP CUDLEY	750,0	UNITED TEXAS TRANSMI
-M J BRANNON				RECEIVED: 09/26/80 JA: TX			
8058776	19298	4208331643	103	J T PORTER UNIT #2	BUNKETT SW (DUFFER OIL)	18,0	WEST CEN-TEX GAS CO
-MAGNATEX CORP				RECEIVED: 09/26/80 JA: TX			
8058759	21019	4243130748	103	MAHAFFEY #2-2A 040108	CONGER (PENN)	18,3	VALERO TRANSMISSION
-MAY PETROLEUM INC				RECEIVED: 09/26/80 JA: TX			
8058912	21897	4229530729	103	HARRY KING NU 1 (04532)	BRADFORD (CLEVELAND)	55,0	DIAMOND SHAMROCK COR

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
-MGF OIL CORP				RECEIVED: 09/26/80 JA: TX			
8058765	20803	4203330543	103	CANON-WHATLEY A #1	JO-MILL (SPRABERRY)	18,6	GETTY OIL CO
8058777	19799	4223531436	103	WINTERBOTHAM B NO 2	DOVE CREEK (CANYON-C)	2737,5	CRA
-MITCHELL ENERGY CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058711	15703	4249700000	108	JAMES T FITCH #1 35070	BOUNSVILLE (BEND CONGL G	5,0	NATURAL GAS PIPELINE
8058769	18771	4249731567	103	MICHAEL CLOUGH #1 ID #85605	WISE-KENT (MAM SAND)	190,0	NATURAL GAS PIPELINE
8058723	17457	4236731746	103	T R GARRETSON #2	BOUNSVILLE (BEND CONGL G	27,0	NATURAL GAS PIPELINE
-MOBIL OIL CORP				RECEIVED: 09/26/80 JA: TX			
8058724	17491	4221932667	103	MAPLE WILSON NO 73	SLAUGHTER	7,0	AMOCO PRODUCTION CO
8058725	17493	4221932669	103	MAPLE WILSON NO 75	SLAUGHTER	10,5	AMOCO PRODUCTION CO
8058726	17496	4221932647	103	MAPLE WILSON NO 79	SLAUGHTER	21,5	AMOCO PRODUCTION CO
8058727	17497	4221932649	103	MAPLE WILSON NO 80	SLAUGHTER	11,5	AMOCO PRODUCTION CO
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED: 09/26/80 JA: TX			
8058840	21463	4244300000	103	BROWN-MCNINCH EST UNIT NO 2	BROWN - BASSETT (ELLENBU	1825,0	EL PASO NATURAL GAS
8058916	21990	4224900000	108	C F H BLUCHER NO 43-L	TIJERINA-CANALES-BLUCHER	18,0	NATURAL GAS PIPE LIN
8058915	21989	4213131039	108	DUVAL RANCH SEC 201 NO 58	PETRUX (WILCOX 7100)	8,2	TENNESSEE GAS PIPE L
*8058914	21987	4224900000	108	LA GLORIA GAS UT NO 83	LA GLORIA (BROOKS)	16,3	NATURAL GAS PIPE LIN
-MORAN EXPLORATION INC				RECEIVED: 09/26/80 JA: TX			
8058818	21604	4208700000	108	MCDONALD #2	PANHANDLE EAST	3,4	WARREN PETROLEUM CO
8058817	21603	4217900000	108	OHARA #1	PANHANDLE WEST	13,5	EL PASO NATURAL GAS
-MORMAC OIL & GAS CO				RECEIVED: 09/26/80 JA: TX			
8058794	21123	4212731913	102	N C KING NO 2	STUMBERG (OLMOS 4150)	40,0	VALERO TRANSMISSION
-MOSBACHER PRODUCTION CO				RECEIVED: 09/26/80 JA: TX			
8058878	21650	4228730462	103	MRS JOHN CARMEAN ET AL NO 1	GIDDINGS (AUSTIN CHALK)	72,0	CLAJON GAS CO
8058877	21649	4228730536	103	MRS JOHN CARMEAN ET AL NO 3	GIDDINGS (AUSTIN CHALK)	239,0	CLAJON GAS CO
-MURJO OIL & ROYALTY CO				RECEIVED: 09/26/80 JA: TX			
8058680	08795	4236700000	103	LADD-CARR K #4 ID #77570	BRAZOS EAST (CADDO)	91,0	LONE STAR GAS CO
-NATIONAL EXPLORATION COMPANY				RECEIVED: 09/26/80 JA: TX			
8058722	17446	4225530722	103	J P HILBRICH NO 1	MCCASKILL FIELD	140,0	UNITED GAS PIPE LINE
-NIGAS				RECEIVED: 09/26/80 JA: TX			
8058904	21770	4206530748	103	KEITH #5	PANHANDLE CARSON	98,6	PANHANDLE EASTERN PI
-OWL PETROLEUM CO				RECEIVED: 09/26/80 JA: TX			
8058744	16596	4248131780	102	D S BABCOCK NO 1-C	MENEFEE (FRIO 4375)	90,0	TRANSCONTINENTAL GAS
8058744	16596	4248131780	103	D S BABCOCK NO 1-C	MENEFEE (FRIO 4375)	90,0	TRANSCONTINENTAL GAS
-PANHANDLE PRODUCING COMPANY				RECEIVED: 09/26/80 JA: TX			
8058728	17538	4206500000	108	VIDA LEWIS A-1	PANHANDLE CARSON COUNTY	0,3	GETTY OIL CO
-PARKER & PARSLEY INC				RECEIVED: 09/26/80 JA: TX			
8058747	16891	4232930845	103	GOLLADAY D NO 1	SPRABERRY (TREND AREA)	15,0	PHILLIPS PETROLEUM C
8058748	16892	4217331000	103	HUTCHISON NO 1	SPRABERRY (TREND AREA)	15,0	PHILLIPS PETROLEUM C
-PENNZOIL PRODUCING COMPANY				RECEIVED: 09/26/80 JA: TX			
8058767	20997	4235531249	103	E A KINSEY NO B-3-D	AGUA DULCE (KINSEY 6400)	190,0	UNITED GAS PIPE LINE
-PETRO-LEWIS CORPORATION				RECEIVED: 09/26/80 JA: TX			
8058694	13500	4210500000	108	J W HENDERSON #3	OZONA (CANYON SAND)	12,6	NORTHERN NATURAL GAS
-PETRO-SEARCH INC				RECEIVED: 09/26/80 JA: TX			
8058693	13256	4223300000	108	WHITTENBURG L #3 (1-117-01259-9)	PANHANDLE	1,7	PHILLIPS PETROLEUM C
-PETROLEUM MANAGEMENT INC				RECEIVED: 09/26/80 JA: TX			
8058697	13668	4248900000	102	YTURRIA CATTLE CO #B-1	LA SARA N E	120,0	LA GLORIA OIL & GAS
8058698	13669	4248900000	102	YTURRIA CATTLE CO #B-3	LA SARA N E (7400)	250,0	LA GLORIA OIL & GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 09/26/80 JA: TX			
8058699	13958	4200304671	108	(14536) TEX UNIV - M #4	FULLERTON SOUTH (WOLFCAM	18,2	EL PASO NATURAL GAS
8058795	21238	4232901406	108	(24427) MCALISTER-A #1	AZALEA (DEVONIAN)	23,0	NORTHERN NATURAL GAS
*8058709	15286	4234100000	108	BERAN NO 1	WEST PANHANDLE	5,0	EL PASO NATURAL GAS
8058749	16930	4246530320	103	CAUTHORN-G NO 1 (84357)	VINEGARONE (STRAWN)	1000,0	NORTHERN NATURAL GAS

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8058745	16721	42421302 31	103	CRAIG K NO 2	COLDWATER CREEK MARMATON	45.0	
8058715	15940	42233000 00	108	JOHNSON RANCH A NO 82	W PANHANDLE	1.0	PANHANDLE EASTERN PI
8058692	13132	42179000 00	108	PHIL-PAMPA UNIT NO 01-05	PANHANDLE GRAY	8.4	GETTY OIL CO
8058691	12913	42179000 00	108	PHIL-PAMPA UNIT NO 58-04	PANHANDLE GRAY	4.0	GETTY OIL CO
8058882	21674	42179000 00	108	PHIL-PAMPA UNIT 11-11	PANHANDLE GRAY	18.0	GETTY OIL CO
8058881	21673	42179000 00	108	PHIL-PAMPA UNIT 3-4	PANHANDLE GRAY	1.0	GETTY OIL CO
*8058710	15300	42233000 00	108	THOMPSON E NO 2	PANHANDLE HUTCHINSON	0.1	EL PASO NATURAL GAS
8058751	16154	42341305 23	103	VILAS NO 2	W PANHANDLE	92.0	EL PASO NATURAL GAS
-REALITOS II EXPLORATION PROGRAM				RECEIVED: 09/26/80 JA: TX			
8058736	17799	42239314 51	102	MAURITZ NO 1	M & C SURVEY A-235	183.0	TEXAS EASTERN TRANSM
-RIAL OIL COMPANY				RECEIVED: 09/26/80 JA: TX			
8058850	21408	42371328 77	103	BELDING STATE 29 #1 #25650	BELDING E (YATES)	1.0	
8058852	21412	42287305 12	103	M MERTINK #1 #12718	GIDDINGS (AUSTIN CHALK)	5.8	
8058849	21407	42317320 92	103	REED #1 62617	ACKERLY (DEAN SAND)	22.3	TEXACO INC
8058848	21406	42115312 83	103	RUBY LEWIS #1 62563	ACKERLY (DEAN SAND)	11.1	TEXACO INC
8058851	21409	42003318 69	103	UNIVERSITY 4 #1 #25558	MAK (SPRABERRY)	18.0	
-ROBERT M WYNNE				RECEIVED: 09/26/80 JA: TX			
8058808	21610	42105000 00	103	UNIVERSITY 24 #1	FARMER (SAN ANDRES)	1.0	BIG LAKE GAS CORP
-ROCKWOOD RESOURCES INC				RECEIVED: 09/26/80 JA: TX			
8058720	17080	42481317 38	102	ROCKWOOD-KAINER #1	HUTCHINS S W (FRIO 6020)	60.0	TENNESSEE GAS PIPELI
8058743	18215	42491317 89	102	TUCKER NO 1 85158	MENEFEE (FRIO 5540)	0.0	TRANSCONTINENTAL GAS
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED: 09/26/80 JA: TX			
8058737	17952	42355314 36	102	CORZINE GAS UNIT NO 1	BOBBY LYNN KING (VXBG 81	500.0	UNITED TEXAS TRANSMI
-SIMPSON-MANN OIL PRODUCERS				RECEIVED: 09/26/80 JA: TX			
8058903	21766	42235314 33	103	J R SCOTT EST #1	SPRABERRY (TREND AREA)	90.0	NORTHERN NATURAL GAS
-SOUTHLAND ROYALTY CO				RECEIVED: 09/26/80 JA: TX			
8058796	21239	42103321 86	103	BRYANT 20 #1	CRAWAR NORTH	75.0	
8058853	21417	42105325 16	103	TODD 53A #1	WYATT	75.0	PERMIAN CORP
-SOUTHWESTERN ELECTRIC POWER CO				RECEIVED: 09/26/80 JA: TX			
*8058721	17285	42365000 00	103	J T TWOMEY #1	CARTHAGE (COTTON VALLEY)	182.0	TEXAS EASTERN TRANSM
-STERLING CO				RECEIVED: 09/26/80 JA: TX			
*8058742	18085	42413000 00	103	MERTZ #1-75550	MERTZ-HAMILL (STRAWN)	250.0	LONE STAR GAS CO
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 09/26/80 JA: TX			
8058754	16433	42273312 83	103	A T CANALES NO 54	TIJERINA-CANALES-BLUCHER	305.0	FLORIDA GAS TRANSMIS
8058775	19266	42237327 64	103	DURHAM A-3 UNIT NO 4	BOUNSVILLE (BEND CONGLOM	47.0	LONE STAR GAS CO
8058740	17999	42211310 75	103	J C STUDER NO 2	HUMPHREYS	423.0	PIONEER NATURAL GAS
8058695	13588	42427000 00	108	OLIVARES F G UNIT NO 3	NORTH SUN	11.0	
8058909	21802	42365309 74	103	SALLIE J NEAL C #4	CARTHAGE	1022.0	TENNESSEE GAS PIPELI
-SUNNYBROOK OIL & GAS INC				RECEIVED: 09/26/80 JA: TX			
8058908	21798	42401000 00	108	J P SNEED RRC ID #22899	MINDEN TRAVIS PEAK	12.0	TEXAS UTILITIES FUEL
-TAYLOR OPERATING COMPANY				RECEIVED: 09/26/80 JA: TX			
8058763	20440	42237000 00	103	ORA PORTER #2 (85194)	BOUNSVILLE (BEND CONGL G	657.0	LONE STAR GAS CO
-TENNECO OIL COMPANY				RECEIVED: 09/26/80 JA: TX			
8058773	19220	42179306 97	103	COMBS 32A	PANHANDLE GRAY COUNTY	12.0	PHILLIPS PETROLEUM C
8058689	07273	42501314 82	103	J E WRIGHT #17	PRENTICE (6700) CLEARFOR	3.5	AMOCO PRODUCTION CO
-TEXACO INC				RECEIVED: 09/26/80 JA: TX			
8058819	21607	42105324 94	103	A R KINCAID TRUST #7	OZONA (CANYON SAND)	173.0	NORTHERN NATURAL GAS
8058687	04300	42179000 00	108	J P CUNNINGHAM #8	PANHANDLE EAST	4.0	PIONEER NATURAL GAS
-TEXAS OIL & GAS CORP				RECEIVED: 09/26/80 JA: TX			
8058735	17664	42423303 95	103	MELTON #1	OVERTON (HAYNESVILLE)	0.0	UNITED GAS PIPE LINE
8058822	21582	42235000 00	103	WINTERBOTHAM A #2	DOVE CREEK (CANYON D)	219.0	CRA INC
-TODDCO PETROLEUM INC				RECEIVED: 09/26/80 JA: TX			

JD NO	JA TKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8058679	08593	4223300000	108	-	DANCIGER-CHEATHAM #1	WEST PANHANDLE	14,0	PHILLIPS PETROLEUM C
*TRINITY OIL & GAS CORP					RECEIVED: 09/26/80 JA: TX			
*8058734	17638	4213331746	103		BAR H BAR #2 #15424	WILDCAT	5,0	REISS PETROLEUM INC
*TUCKER DRILLING COMPANY INC					RECEIVED: 09/26/80 JA: TX			
8058770	18797	4243532151	108		DUNBAR #15	SAWYER (CANYON)	15,8	EL PASO NATURAL GAS
*U S OPERATING INC					RECEIVED: 09/26/80 JA: TX			
8058683	11614	4228730421	102		BONNIE #1	GIDDINGS (AUSTIN CHALK-G	0,0	PGP GAS PRODUCTS INC
*U S RESOURCES INC					RECEIVED: 09/26/80 JA: TX			
8058706	14495	4228730521	102		ANNE #1	GIDDINGS (AUSTIN CHALK *	720,0	PGP GAS PRODUCTS INC
8058684	11758	4228730468	102		RUTHIE #1	GIDDINGS (AUSTIN CHALK G	700,0	PGP GAS PRODUCTS INC
*UNION OIL COMPANY OF CALIF					RECEIVED: 09/26/80 JA: TX			
8058712	15789	4236530705	103		FRED KYLE #2 79862	CARTHAGE (COTTON VALLEY)	438,0	WESTERN GAS CORP
*8058713	15790	4236530706	103		J F HANCOCK #2	CARTHAGE (COTTON VALLEY)	438,0	WESTERN GAS CORP
*VENUS OIL COMPANY					RECEIVED: 09/26/80 JA: TX			
8058708	15024	4235500000	103		SANDERS B #5	BALDWIN (2830 LAGARTO)	0,0	DELHI GAS PIPELINE C
*WARREN PETR CO A DIV OF GULF OIL CO					RECEIVED: 09/26/80 JA: TX			
8058760	21020	4210332095	103		M L BARNSLEY C NO 10	LEA (SAN ANDRES)	3,0	EL PASO NATURAL GAS
8058756	21023	4210332142	103		W N WADDELL ET AL TR A NO 1134	SAND HILLS (JUDKINS)	68,0	EL PASO NATURAL GAS
8058761	21022	4210332141	103		W N WADDELL ET AL TR A NO 1135	SAND HILLS (JUDKINS)	10,0	EL PASO NATURAL GAS
*WAY & MILLS					RECEIVED: 09/26/80 JA: TX			
8058821	21609	4238331454	103		UNIVERSITY 11 #16	FARMER (SAN ANDRES)	13,5	NORTHERN NATURAL GAS
8058768	21006	4238331476	103		UNIVERSITY 9B #2	FARMER (SAN ANDRES)	35,0	NORTHERN NATURAL GAS
8058820	21608	4238331575	103		UNIVERSITY 9B #3	FARMER (SAN ANDRES)	30,0	NORTHERN NATURAL GAS
*WILLIAM C DOENGES					RECEIVED: 09/26/80 JA: TX			
8058816	21596	4223300000	108		RIGSBY 1 RC 27209	PANHANDLE WEST - RED CAV	15,8	PHILLIPS PETROLEUM C
*WOOD MCSHANE & THAMS					RECEIVED: 09/26/80 JA: TX			
8058789	21037	4216531231	103		ALEXANDER #2	BLOCAK A-34 (YATES)	149,7	EL PASO NATURAL GAS
8058778	18405	4216531278	108		MAYO B #1 RRC #75066	BLOCK A-34 (YATES)	0,3	EL PASO NATURAL GAS
8058788	21036	4216531234	103		SIMPSON #2 RRC NO 25318	BLOCK A-34 (YATES)	17,5	EL PASO NATURAL GAS
*WRIGHT COWDEN JR					RECEIVED: 09/26/80 JA: TX			
*8058686	12409	4222130566	102		COOK UNIT #1	LIPAN (MARBLE FALLS)	108,0	NORTHERN GAS PRODUCT

OTHER PURCHASERS	VOLUME NO 296
8058657	MUSTANG GAS PRODUCTS CO
8058658	MUSTANG GAS PRODUCTS CO
8058668	CHASE GATHERING SYSTEMS INC
8058673	PANHANDLE EASTERN PIPE LINE COMPANY
8058686	TEXAS UTILITIES FUEL CO
8058696	PANHANDLE EASTERN PIPELINE CO
8058701	TEXAS EASTERN TRANSMISSION CO
8058709	PANHANDLE EASTERN PIPELINE CO
8058710	PANHANDLE EASTERN PIPELINE CO
8058713	DELMI GAS CORP
8058721	SOUTHWESTERN ELECTRIC POWER CO
8058734	REISS PETROLEUM INC
8058742	INTRATEX GAS CO
8058741	AMOCO PRODUCTION CO
8058815	TEXAS UTILITIES FUEL CO
8058829	TEXAS UTILITIES FUEL CO
8058854	COLTEX: CORP
8058855	COLTEX: CORP
8058856	COLTEX: CORP
8058871	EL PASO NATURAL GAS CO
8058873	EL PASO NATURAL GAS CO
8058874	EL PASO NATURAL GAS CO
8058880	SID RICHARDSON CARBON & GASOLINE CO
8058914	TRANSCONTINENTAL GAS P L CORP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 4, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32449 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-85-M

Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 9, 1980.

JD NO	JA FRT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
********** COLORADO OIL & GAS COMMISSION **********							
*AMOCO PRODUCTION CO				RECEIVED: 09/30/80 JA: CO			
8059213	80-266	0500506372	103	CHAMPLIN 569 AMOCO C #1		50,0	SUN GAS CO
*BYRON OIL INDUSTRIES INC				RECEIVED: 09/30/80 JA: CO			
8059220	80-244	0512309829	103	BYRON-JEAN JACOBUCCI #4	SPINDLE FIELD WATTENBERG	3,7	NORTHERN NATURAL GAS
8059221	80-242	0500107529	103	BYRON-MARK DEGENHART #7	SPINDLE	10,3	NORTHERN NATURAL GAS
8059219	80-245	0500107520	103	BYRON-QUEBEC NORTH INV LTD #4	SPINDLE FIELD WATTENBERG	10,8	NORTHERN NATURAL GAS
8059197	80-243	0500107519	103	BYRON-QUEBEC-NORTH INV LTD #3	SPINDLE FIELD WATTENBERG	10,8	NORTHERN NATURAL GAS
*FUEL RESOURCES DEVELOPMENT CO				RECEIVED: 09/30/80 JA: CO			
8059218	79-468-B	0504500000	108	KELLY-YOUNG-JENSEN B #1	CARBONERA	0,0	WESTERN SLOPE GAS CO
*KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED: 09/30/80 JA: CO			
8059205	80-752	0512506255	108	BOLIN 1-8	SCHRAMM	16,0	
8059204	80-755	0512506241	108	BRAND 1-27	SHOUT	14,0	
8059203	80-750	0512506222	108	COLLINS 1-33	SCHRAMM	14,0	
8059206	80-749	0512506248	108	GOFF 1-22	BUCKBOARD	19,0	
8059202	80-758	0512506231	108	MILL IRON 1-4	SCHRAMM	12,0	KANSAS-NEBRASKA NATU
8059209	80-153	0512506223	108	NEWBANKS 1-14	BUCKBOARD	17,0	
8059207	80-754	0512506262	108	VINCENT 1-8	WHISPER	18,0	
*KENAI OIL AND GAS INC				RECEIVED: 09/30/80 JA: CO			
8059208	80-258	0500107450	103	SINGLETON #12-12	SUN FIELD	165,0	KOCH HYDROCARBON CO
*MACEY & MERSHON OIL INC				RECEIVED: 09/30/80 JA: CO			
8059215	80-273	0512309920	103	URSULA #2	SPINDLE	73,0	PANHANDLE EASTERN PI
*MESA PETROLEUM				RECEIVED: 09/30/80 JA: CO			
8059198	80-268	0512506412	102	CONRAD #1-30	ECKLEY	60,0	CITIES SERVICE GAS C
8059200	80-269	0512506411	102	CONRAD #1-31	ECKLEY	60,0	CITIES SERVICE GAS C
8059199	80-270	0512506410	102	CONRAD #1-32	ECKLEY	60,0	CITIES SERVICE GAS C
*MGF OIL CORP				RECEIVED: 09/30/80 JA: CO			
8059201	80-275	0512309948	103	HALLER 34-21	WATTENBERG FIELD	280,0	PANHANDLE EASTERN PI
*MOUNTAIN PETROLEUM CORPORATION				RECEIVED: 09/30/80 JA: CO			
8059217	80-260	0512506103	108	ALLISON 1-32	VERNON	18,0	KANSAS-NEBRASKA NATU
8059216	80-246	0512506198	108	FRERICHS 1-30	VERNON	0,5	KANSAS-NEBRASKA NATU
*NATOMAS NORTH AMERICA INC				RECEIVED: 09/30/80 JA: CO			
8059212	80-263	0506706264	102	GEARHART #1-8	IGNACIO-BLANCO EXTENSION	0,0	
8059210	80-264	0506706243	102	PINE RIVER UNIT NO 1-30	IGNACIO-BLANCO EXTENSION	0,0	
8059211	80-259	0506706235	102	STATE #1-36	IGNACIO	0,0	
*PENROSE ZACHARY OPERATING CO				RECEIVED: 09/30/80 JA: CO			
8059214	80-265	0506706275	103	JAQUES #4	IGNACIO-BLANCO	276,0	EL PASO NATURAL GAS
********** KANSAS CORPORATION COMMISSION **********							
*ALBERT A THORNBROUGH				RECEIVED: 09/29/80 JA: KS			
8059178	K-80-0653	1507500000	108	MCDONALD #1 13-25S-39W	HUGOTON	12,0	COLORADO INTERSTATE

BILLING CODE 6450-85-M

JD NO	JA DAT	API NO	SEC	U WELL NAME	FIELD NAME	PROD	PURCHASER
*ANADARKO PRODUCTION COMPANY				RECEIVED: 09/29/80 JA: KS			
8059175	K-80-0450	1517520453	102	COSGROVE A #3	SHUCK FIELD	106,0	CIMARRON-QUINQUE SYS
*BEREN CORPORATION				RECEIVED: 09/29/80 JA: KS			
8059184	K-80-0701	1509720585	102	DEHAVEN #1	EMMA	195,0	PANHANDLE EASTERN PI
8059183	K-80-0699	1509720546	102	EMMA #1	EMMA	111,0	PANHANDLE EASTERN PI
8059189	K-80-0679	1509320642	103	FLINTJER #1	PANOMA	119,0	
8059186	K-80-0702	1509720581	102	HEALY #1	EMMA	24,0	PANHANDLE EASTERN PI
8059188	K-80-0678	1509320649	103	KRUPP #1	PANOMA	30,0	
*DIAMOND SHAMROCK CORPORATION				RECEIVED: 09/29/80 JA: KS			
8059194	K-80-0608	1511920408	103	OTTO FELDMAN NO 3		15,0	PANHANDLE EASTERN PI
*F G HOLL				RECEIVED: 09/29/80 JA: KS			
8059182	K-80-0659	1504720243	108	BRITTON B NO 1	WAYNE NORTH	2,6	REPUBLIC NATURAL GAS
8059181	K-80-0658	1504700000	108	CAMPBELL B NO 1	ENLOW EXT	8,0	REPUBLIC NATURAL GAS
8059179	K-80-0654-A	1504720423	103	MC BURNEY NO 2-22	WAYNE NORTH	40,0	REPUBLIC NATURAL GAS
8059180	K-80-0657	1504720352	103	MILLER NO 1-13	ENLOW EXT	20,0	REPUBLIC NATURAL GAS
*GETTY OIL COMPANY				RECEIVED: 09/29/80 JA: KS			
8059172	K-80-0619	1504700361	108	EMMA SMITH NO 1	EDSTAFF FIELD	15,6	NORTHERN NATURAL GAS
*LADD PETROLEUM CORPORATION				RECEIVED: 09/29/80 JA: KS			
8059187	K-80-0676	1507500000	108	HCU 1331	BRADSHAW	9,0	KANSAS-NEBRASKA NATU
*LEE BANKS				RECEIVED: 09/29/80 JA: KS			
8059185	K-80-0542	1509720557	102	HEINZE #1	SE JOY STATION	144,0	KANSAS POWER & LIGHT
*MCCOY PETROLEUM CORP				RECEIVED: 09/29/80 JA: KS			
*8059190	K-80-0680	1507720581	103	CRAMER B #1	SPIVEY-GRABS	0,0	PANHANDLE EASTERN PI
*8059191	K-80-0681	1507720602	103	WILLIAMS D #1	SPIVEY-GRABS	18,0	PANHANDLE EASTERN PI
*MOBIL OIL CORP				RECEIVED: 09/29/80 JA: KS			
8059171	K-80-0611	1512920429	103	CONTINENTAL ASSURANCE CO UT #1	PANOMA	70,0	NORTHERN NATURAL GAS
*OX BOW GAS CO				RECEIVED: 09/29/80 JA: KS			
8059196	K-80-0610	1520520427	108	HOLDER #2	NE1/4 N/W1/4 S1 T30 R14E	3,7	UNION GAS CO
8059195	K-80-0609	1520520674	108	HOLDER #3	SE1/2 SE1/4 S1 T 30 R14E	6,8	UNION GAS CO
*QUINQUE OIL & GAS PRODUCING CO				RECEIVED: 09/29/80 JA: KS			
8059177	K-80-0652	1511920357	103	ADAMS #1-4	ADAMS RANCH WILDCAT	81,9	
8059176	K-80-0651	1511920383	103	ADAMS #1-8	ADAMS RANCH WILDCAT	91,1	
*RAYMOND OIL COMPANY INC				RECEIVED: 09/29/80 JA: KS			
8059193	K-80-0683	1500720939	103	CARR A #1	DEERHEAD	100,0	CITIES SERVICE GAS C
8059192	K-80-0682	1500720935	103	CLINE #1	DEERHEAD	100,0	CITIES SERVICE GAS C
*TEXAS OIL & GAS CORP				RECEIVED: 09/29/80 JA: KS			
8059174	K-80-0622	1500320334	103	DAISY HALL #1		670,0	DELHI CORP
*WOOLSEY PETROLEUM CORP				RECEIVED: 09/29/80 JA: KS			
8059173	K-80-0620	1515120670	103	LAWTON #1	PRATT	36,5	CENTRAL STATES GAS C

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OKLAHOMA CORPORATION COMMISSION

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*ANDOVER OIL COMPANY				RECEIVED: 09/29/80 JA: OK			
8059072	05361	3504721601	103	HLADIK #22-1	SOUNER TREND	9,0	PHILLIPS PETROLEUM C
8059044	05397	3501721280	103	ROTHER #2-1	WILDCAT	185,0	DELHI GAS PIPELINE C
*ARTHUR FINSTON				RECEIVED: 09/29/80 JA: OK			
8059083	05212	3508300000	103	ALLISON NO 1	EAST GUTHRIE LAKE	400,0	CITIES SERVICE GAS C
*ASHLAND EXPLORATION INC				RECEIVED: 09/29/80 JA: OK			
8059077	03009	3504320476	108	HOYT 2-33	LENORA SW	13,4	MICHIGAN-WISCONSIN P
*CHAMPLIN EXPLORATION INC				RECEIVED: 09/29/80 JA: OK			
8059052	05003	3504721859	103	MCCLURG-GILLESPIE #1	SOUNER TREND	16,9	PANHANDLE EASTERN PI
*DAVIS OIL COMPANY				RECEIVED: 09/29/80 JA: OK			

JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8059066	05457	3501721239	103	HANSKA NO 1	NORTH FORK	350,0	PHILLIPS PETROLEUM C
8059067	05456	3501721411	103	SUMMER NO 1	NORTH FORK	300,0	PHILLIPS PETROLEUM C
8059049	05323	3507322280	103	YOST #1	WILDCAT	260,0	CITIES SERVICE GAS C
*DICK BUGERT INC				RECEIVED: 09/29/80 JA: OK			
8059018	05292	3504700000	103	CLARK #1-6	SOONER TREND	250,0	UNION TEXAS PETROLEU
8059017	05293	3504700000	103	DRAGOUN #1-17	SOONER TREND	250,0	UNION TEXAS PETROLEU
8059071	05285	3507322346	103	ELIZABETH #1-14	SOONER TREND	160,0	CONOCO INC
8059068	05444	3504700000	103	FELBER 1-7	SOONER TREND	75,0	UNION TEXAS PETROLEU
8059070	05291	3504721898	103	LILLIAN #1-18	SOONER TREND	150,0	UNION TEXAS PETROLEU
*EDWIN L COX				RECEIVED: 09/29/80 JA: OK			
8059026	03985	3513921176	103	CARTHAGE I UNIT - CB-6	CARTHAGE	60,0	PHILLIPS PETROLEUM C
8059027	02292	3513900000	103	CARTHAGE 1 UNIT - CB-5	CARTHAGE	60,0	PHILLIPS PETROLEUM C
8059028	02291	3513900000	103	CARTHAGE 1 UNIT - CG-5	CARTHAGE	60,0	PHILLIPS PETROLEUM C
*ENNEX PRODUCTION COMPANY				RECEIVED: 09/29/80 JA: OK			
8059069	05427	3501721349	103	SMALL #2	EAST GEARY	474,0	DELHI GAS PIPELINE C
*F C D LTD				RECEIVED: 09/29/80 JA: OK			
8059014	05387	3508320225	103	MORITZ A-1	W LAWIE	0,0	EASON OIL CO
*F M BUXTON				RECEIVED: 09/29/80 JA: OK			
8059051	05313	3508300000	103	FOX NO 1	SOONER TREND	110,0	CONOCO INC
*HADSON PETROLEUM CORP				RECEIVED: 09/29/80 JA: OK			
8059055	04715	3505120644	103	NEVIUS 1-15	CHITWOOD	75,0	MOBIL OIL CO
*HAMM PRODUCTION CO				RECEIVED: 09/29/80 JA: OK			
8059020	05407	3508321191	103	E CASSADY #1	MARSHALL	36,5	EASON OIL CO
8059032	05408	3508321183	103	O HAUGHERTY #1	MARSHALL	36,5	EASON OIL CO
8059009	05406	3508321099	103	POTTER-CASTEEL #1	MARSHALL	36,5	EASON OIL CO
*HARPER OIL COMPANY				RECEIVED: 09/29/80 JA: OK			
8059061	05463	3508321267	103	JOHN #1	S LUCIEN	18,0	EASON OIL CO
8059060	05464	3508321210	103	MAE #2	WILDCAT	10,0	EASON OIL CO
*HELMERICH & PAYNE INC				RECEIVED: 09/29/80 JA: OK			
8059081	05395	3501120972	103	GARRETT NO 1-16	S E THOMAS	274,0	MICHIGAN WISCONSIN P
*HUNT ENERGY CORPORATION ET AL				RECEIVED: 09/29/80 JA: OK			
8059047	05324	3501520701	103	GRIFFIN NO 1	UNNAMED	274,0	MICHIGAN WISCONSIN P
*JET OIL COMPANY				RECEIVED: 09/29/80 JA: OK			
8059074	05261	3508320642	103	ANNA PRIESS #1	S E RUSSELL	5,0	SERVICE DRILLING CO
*JOHN A TAYLOR				RECEIVED: 09/29/80 JA: OK			
8059034	05240	3512920227	103	ELLIS 1-34	W GRAND	475,0	DELHI GAS PIPELINE C
8059035	05233	3508120871	103	WATTS 1-27	E PRAGUE	365,0	SOUTHWEST GATHERING
*JONES & PELLOW OIL CO				RECEIVED: 09/29/80 JA: OK			
8059090	05411	3508120769	103	GRANT #22-1		365,0	SERVICE DRILLING CO
8059036	05436	3501921919	103	MONSON #35-4		60,0	AMINOIL USA INC
*K P EXPLORATION INC				RECEIVED: 09/29/80 JA: OK			
8059023	00962	3513921150	102	WHISENANT NO 1-3		1080,0	NATURAL GAS PIPELINE
8059024	00978	3513921122	102	WRIGHT NO 1-33 (CHESTER)		72,0	NATURAL GAS PIPELINE
8059025	00980	3513921122	102	WRIGHT NO 1-33 (UPPER MORROW)		360,0	NATURAL GAS PIPELINE
*KAISER-FRANCIS OIL COMPANY				RECEIVED: 09/29/80 JA: OK			
8059019	03951	3501720901	102	CAMPBELL #1	E LOOKEBA	274,0	ARKANSAS-LOUISIANA G
8059086	04694	3505120717	103	HURST #1	WATONGA-CHICKASHA TREND	75,0	ARKANSAS LOUISIANA G
8059082	05221	3505920853	108	RADER NO 1	MOCANE-LAVERNE GAS	8,6	NORTHERN NATURAL GAS
8059053	04687	3505120759	103	WHITING #1	S E CHICKASHA	365,0	MISSISSIPPI RIVER TR
8059087	04687	3505120759	102	WHITING #1	S E CHICKASHA	365,0	MISSISSIPPI RIVER TR
*L G WILLIAMS OIL COMPANY INC				RECEIVED: 09/29/80 JA: OK			
8059059	05465	3501721306	103	KUNNEMAN #32-2	NORTH CONCHO	0,0	PHILLIPS PETROLEUM C

JD NO.	JA ORI	API NO.	SEC	D	WELL NAME	FIELD NAME	PRICE	PURCHASER
8059058	05466	3501721233	103		LAMB #19-4	YUKON	0,0	PHILLIPS PETROLEUM C
8059057	05466	3501721218	103		MORRIS #15-1	NW RICHLAND	0,0	PHILLIPS PETROLEUM C
8059048	05331	3501721325	103		ROTHER #29-1	NORTH CONCHO	50,0	PHILLIPS PETROLEUM C
-LADD PETROLEUM CORPORATION					RECEIVED: 09/29/80 JA: OK			
8059085	04983	3505120827	103		EISENHOUR NO 1	WEST MINCO	684,4	MICHIGAN-WISCONSIN P
-MAPCO PRODUCTION COMPANY					RECEIVED: 09/29/80 JA: OK			
8059010		3504520781	103		GIBBS NO 1	SHATTUCK SW	182,5	TRANSWESTERN PIPELIN
-MAY PETROLEUM INC					RECEIVED: 09/29/80 JA: OK			
8059043	05412	3515320913	103		CHENOWETH #1 (153-56009)	SHARON WEST	36,0	PRODUCERS GAS CO
-MID-REGION OIL & GAS INC					RECEIVED: 09/29/80 JA: OK			
8059045	05381	3511121841	103		GOLDIE NO 1	HECTORVILLE	31,0	PHILLIPS PETROLEUM C
-MONSANTO COMPANY					RECEIVED: 09/29/80 JA: OK			
8059011	05401	3504520770	103		MORAN NO 1	S E HARMON	167,0	PANHANDLE EASTERN PI
-OIL INVESTMENT CO					RECEIVED: 09/29/80 JA: OK			
8059021	02933	3504720793	108		FRANCIS 9 NO 1	SOONER TREND	12,0	PHILLIPS PETROLEUM C
8059022	02912	3507321596	108		VIETH 27 NO 1	SOONER TREND	8,0	PHILLIPS PETROLEUM C
-OKT DEVELOPMENT INC					RECEIVED: 09/29/80 JA: OK			
8059078	02837	3506320716	108		MEADORS 1-28	E LAMAR	9,0	OKLAHOMA GAS & ELECT
-PAYNE INC					RECEIVED: 09/29/80 JA: OK			
8059037	05410	3508321120	103		KENNETH S PRITCHETT #2	N W RUSSELL	14,0	EASON OIL CO
-PETROLEUM INC					RECEIVED: 09/29/80 JA: OK			
8059050	05309	3508720430	103		JOHNSON L #1	S W COLE	20,0	SUN GAS CO
-PHILLIPS PETROLEUM COMPANY					RECEIVED: 09/29/80 JA: OK			
8059041	05424	3501721257	103		BOHLMANN B #1	W PIEDMONT	0,0	PANHANDLE EASTERN PI
8059042	05423	3501721242	103		BOMHOFF B #1	N CONCHO	0,0	PANHANDLE EASTERN PI
8059073	05260	3501720394	103		CROSE A #1	PIEDMONT	0,0	PANHANDLE EASTERN PI
8059040	05425	3501720681	103		DANNEHL D #1	N W PIEDMONT	0,0	OKLAHOMA GAS & ELECT
8059075	05146	3500700000	103		JOHNSON DA NO 1	S COMO(MISS-CHESTER)	95,0	EL PASO NATURAL GAS
8059062	05462	3513900000	108		LORETTA #1	GUYMON HUGOTON	20,0	PANHANDLE EASTERN PI
8059063	05461	3513900000	108		OLIVE NO 1	GUYMON HUGOTON	14,4	PANHANDLE EASTERN PI
8059046	05359	3501721204	103		ZUM MALLEN B #1		0,0	PANHANDLE EASTERN PI
-RICKS EXPLORATION CO					RECEIVED: 09/29/80 JA: OK			
8059030	02217	3509321407	103		FRANTZ #29-A	ORIENTA W	10,0	UNION TEXAS PETROLEU
8059029	02226	3500302398	108		MARLEY #2-A	CHANEY DELL	12,0	UNION TEXAS PETROLEU
-ROBERT E EBERLY SR					RECEIVED: 09/29/80 JA: OK			
8059039	05432	3501500000	103		EBERLY & MEADE DOLCH #1-11	N VERDUN	730,0	PUBLIC SERVICE CO OF
8059080	05398	3501100000	103		EBERLY & MEADE NEELY #1-10	SQUAW CREEK	550,0	MICHIGAN WISCONSIN P
-SCARTH OIL & GAS CO					RECEIVED: 09/29/80 JA: OK			
8059088	04080	3504320972	103		STAUB-MARTINSEN NO 1	LENORA	547,5	MICHIGAN WISCONSIN P
-SEARCH DRILLING CO					RECEIVED: 09/29/80 JA: OK			
8059033	05232	3507216370	103		PICKLE #1	MOCANE-LAVERNE	284,0	
8059038	05434	3500721688	103		FLURIS TOWNSITE #1-29A (REENTRY)	FORGAN	104,0	
-SOUTHPORT EXPLORATION INC					RECEIVED: 09/29/80 JA: OK			
8059013	05393	3515320975	103		WEIR NO 1-15	NORTH VICI	91,0	NORTHERN NATURAL GAS
-TEXACO INC					RECEIVED: 09/29/80 JA: OK			
8059076	04680	3507300000	102		C H SCHRUEDER NO 1	(SILVER LODE PROSPECT)	125,0	PHILLIPS PETROLEUM C
-TOWER OIL AND GAS COMPANY INC					RECEIVED: 09/29/80 JA: OK			
8059079	05400	3504722070	103		SUMMEROUR #1	SOONER TREND	127,8	PANHANDLE EASTERN PI
-TRIGG DRILLING COMPANY INC					RECEIVED: 09/29/80 JA: OK			
8059084	05002	3501120997	103		WOULMAN #1	WATONGA	600,0	DELHI GAS PIPELINE C
-UNIVERSAL RESOURCES CORPORATION					RECEIVED: 09/29/80 JA: OK			
8059056	03938	3501120443	108		LAMLE A-1-2	OKEENE NORTHWEST	18,0	DELHI GAS PIPELINE C

JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
-VIERSEN & COCHRAN				RECEIVED: 09/29/80 JA: OK			
8059089	05417	3515320995	103	HAMILTON #1-27	WEST VICI	180,0	PANHANDLE EASTERN PI
-VULCAN ENERGY CORP				RECEIVED: 09/29/80 JA: OK			
8059012	05394	3507322269	103	GLADSTONE #1	SOONER TREND	130,0	PHILLIPS PETROLEUM C
-VULCAN OIL & GAS CORPORATION				RECEIVED: 09/29/80 JA: OK			
8059054	05107	3511121906	103	GALEN FINCH #1	BEGGS FIELD	109,5	PHILLIPS PETROLEUM C
-WALKER & WITHROW INC				RECEIVED: 09/29/80 JA: OK			
8059031	05409	3501721377	103	KYLE 25-1	YUKON	109,5	DELHI GAS PIPELINE C
-WILLIAM H DAVIS				RECEIVED: 09/29/80 JA: OK			
8059065	05459	3504921276	103	HARKREADER #1	EOLA-RUBBERSON	125,0	SOHIO PETROLEUM CO
8059064	05460	3508321144	103	LOWE #1	NORTH RUSSELL	50,0	EASON OIL CO
-WM J OCONNOR				RECEIVED: 09/29/80 JA: OK			
8059015	05387	3515121004	103	MAX UNIT #1	WEST ALINE	180,0	
8059016	05383	3515120991	103	TODD #1	WEST ALINE	180,0	

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WEST VIRGINIA DEPARTMENT OF MINES

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-APPALACHIAN EXPLORATION & DEVEL INC				RECEIVED: 09/29/80 JA: WV			
8059092		4700501334	108	SHUNK LAND CO #2	SHERMAN	5,1	CONSOLIDATED GAS SUP
-CECIL PRUITT JR				RECEIVED: 09/29/80 JA: WV			
8059118		4701700859	108	DAVIS #1	CENTRAL DISTRICT	3,6	EQUITABLE GAS CO
8059119		4701700879	108	SHERWOOD #1 047-017-879	CENTRAL DISTRICT	3,7	EQUITABLE GAS CO
8059120		4704100941	108	SMITH #1 047-041-941	HACKERS CREEK DISTRICT	3,8	EQUITABLE GAS CO
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 09/29/80 JA: WV			
8059091		4702103095	108	M O BURWELL 6668	W VA OTHER A-85772	2,0	GENERAL SYSTEM PURCH
8059113		4704101831	108	UNION NATL BANK TRUS 11432	W VA OTHER A-85772	15,0	GENERAL SYSTEM PURCH
-INDUSTRIAL GAS CORPORATION				RECEIVED: 09/29/80 JA: WV			
8059109		4700500371	108	PEYTONA COAL CO 31-474	SHERMAN DISTRICT	20,4	HOUDAILLE INDUSTRIES
-JUSTIN M HENDERSON				RECEIVED: 09/29/80 JA: WV			
8059112		4701701865	102	INDIAN MOUND #1	LEEMAN MAXWELL-SW DISTRI	52,0	CARNEGIE NATURAL GAS
-KEITH GRIMFIELD				RECEIVED: 09/29/80 JA: WV			
8059103		4701302989	103	GEORGE MCKEE #6	MILLSTONE	12,0	CABOT CORP
-NASHVILLE ASSOCIATES INC				RECEIVED: 09/29/80 JA: WV			
8059117		4702102438	108	DESPARD RIDGE NO 3	GLENVILLE DISTRICT	0,6	CONSOLIDATED GAS SUP
8059121		4700701071	108	KNIGHT HARRIS #3	SALT LICK DISTRICT	2,0	EQUITABLE GAS CO
8059108		4700701067	108	KNIGHT BRENDA #2	SALT LICK DISTRICT	4,7	EQUITABLE GAS CO
8059100		4700701029	108	KNIGHT CHAD NO 1	SALT LICK DISTRICT	2,1	CONSOLIDATED GAS SUP
8059104		4700701018	108	KNIGHT FERGUSON NO 8-1	SALT LICK DISTRICT	4,6	CONSOLIDATED GAS SUP
8059106		4700701066	108	KNIGHT GLORIA #3	SALT LICK DISTRICT	9,5	EQUITABLE GAS CO
8059122		4700701065	108	KNIGHT HARRIS #1	SALT LICK DISTRICT	2,1	EQUITABLE GAS CO
8059114		4700701070	108	KNIGHT HARRIS #2	SALT LICK DISTRICT	2,1	EQUITABLE GAS CO
8059115		4700707072	108	KNIGHT HARRIS #4	SALT LICK DISTRICT	3,1	EQUITABLE GAS CO
8059107		4700701017	108	KNIGHT POLACK NO 1	SALT LICK DISTRICT	2,7	CONSOLIDATED GAS SUP
8059105		4700701016	108	KNIGHT REED FERGUSON NO A-1	SALT LICK DISTRICT	3,4	CONSOLIDATED GAS SUP
8059110		4700701063	108	KNIGHT WILLIE MAE #1	SALT LICK DISTRICT	10,7	EQUITABLE GAS CO
8059116		4702102230	108	WHITE LUIS #1	TROY DISTRICT	8,1	COLUMBIA GAS TRANSMI
-PENNZOIL COMPANY				RECEIVED: 09/29/80 JA: WV			
8059102		4704301838	103	J E KEELING #2	DUVAL	0,0	CONSOLIDATED GAS SUP
-QUAKER STATE OIL REFINING CORP				RECEIVED: 09/29/80 JA: WV			
8059093		4703922239	108	C C DODD #1	ELK DISTRICT	1,0	COLUMBIA GAS TRANSMI
8059095		4703922262	108	H F LILLY #1 62200-1	ELK DISTRICT	0,4	COLUMBIA GAS TRANSMI
8059094		4703922184	108	H WALKER #1	ELK DISTRICT	3,6	COLUMBIA GAS TRANSMI

JD NO	JA DAT	API NO	SEC T	WELL NAME	FIELD NAME	PROD	PURCHASER
8059099		4703923385	103	HOLDREN #2 62200-2	ELK DISTRICT	1,9	COLUMBIA GAS TRANSMI
8059098		4703923386	103	HOLDREN #3 62200-3	ELK DISTRICT	1,9	COLUMBIA GAS TRANSMI
8059123		4703922186	108	I HALSTEAD #1	ELK DISTRICT	3,6	COLUMBIA GAS TRANSMI
8059097		4703923389	103	J RAY #1 62075-1	BIG SANDY DISTRICT	0,2	COLUMBIA GAS TRANSMI
8059096		4703922236	108	MCCABE #1 62115-1	ELK DISTRICT	3,9	COLUMBIA GAS TRANSMI
-RAY RESOURCES CORP				RECEIVED: 09/29/80 JA: WV			
8059101		4710500721	103	CORA BROWN #685	CLAY	20,1	COLUMBIA GAS TRANS
-TRIO PETROLEUM CORP				RECEIVED: 09/29/80 JA: WV			
8059111		4700701220	108	CARPER NO 1	HEATERS	20,0	CONSOLIDATED GAS SUP
**********							
** U.S. GEOLOGICAL SURVEY - METAIRIE,LA							
**********							
-AMINOIL USA INC				RECEIVED: 09/29/80 JA: LA 3			
8059132	G0-1584	1770840396	102	S MARSH IS BLK 76 #B-11	S MARSH IS 76	725,0	TRANSCONTINENTAL GAS
8059169	G0-1607	1770840425	102	S MARSH IS BLK 76 #B-9	SOUTH MARSH ISLAND 76	1460,0	TRANSCONTINENTAL GAS
-AMOCO PRODUCTION CO				RECEIVED: 09/29/80 JA: LA 3			
*8059137	G0-1580	1771340021	102	OCS-G-2925 NO 6A	SOUTH PELTO 10	400,0	FLORIDA GAS TRANSMIS
-ANADARKO PRODUCTION COMPANY				RECEIVED: 09/29/80 JA: LA 3			
8059154	G0-1595	1770340208	102	E CAMERON BLK 104 NO A-1	EAST CAMERON 104	3650,0	TRUNKLINE GAS CO
8059130	G0-1596	1770340331	102	EAST CAMERON 104 NO A-3	EAST CAMERON 104	1825,0	TRUNKLINE GAS CO
8059131	G0-1597	1770340221	102	EAST CAMERON 104 NO A-4	EAST CAMERON 104	1460,0	TRUNKLINE GAS CO
-CNG PRODUCING COMPANY				RECEIVED: 09/29/80 JA: LA 3			
*8059162	G0-1577	1771240096	102	A-883	SHIP SHOAL 246	1460,0	CONSOLIDATED GAS SUP
*8059152	G0-1578	1771240096	102	A-884 (ALT)	SHIP SHOAL 246	876,0	CONSOLIDATED GAS SUP
-DIAMOND SHAMROCK CORPORATION				RECEIVED: 09/29/80 JA: LA 3			
8059168	G0-1599	1772540178	102	MAIN PASS BLOCK 114 NO 1	MAIN PASS AREA 114	365,0	SOUTHERN NATURAL GAS
8059151	G0-1600	1772540176	102	MAIN PASS BLOCK 116 NO 1	MAIN PASS AREA 116	365,0	SOUTHERN NATURAL GAS
-GULF OIL CORPORATION				RECEIVED: 09/29/80 JA: LA 3			
8059134	G0-1586	1771540279	102	OCS G-2621 #F-1	SOUTH TIMBALIER 29	180,0	TEXAS EASTERN TRANSM
-OCEAN PRODUCTION CO				RECEIVED: 09/29/80 JA: LA 3			
8059126	G0-1593	1771140461	102	OCS-G 067 NO 36A	SHIP SHOAL 113	115,0	TRANSCONTINENTAL GAS
8059136	G0-1582	1771140305	102	OCS-G 1526 B-8A	SHIP SHOAL 223	550,0	TRANSCONTINENTAL GAS
-OXY PETROLEUM INC				RECEIVED: 09/29/80 JA: LA 3			
*8059170	G0-1246	1771040613	102	A-3	EUGENE ISLAND 327	50,0	COLOMBIA GAS TRANSMI
-SONAT EXPLORATION COMPANY				RECEIVED: 09/29/80 JA: LA 3			
8059150	G0-1603	1770340097	102	OCS-G-2038 A-15D	EAST CAMERON 231	227,5	SEA ROBIN PIPELINE C
8059157	G0-1604	1770340082	102	OCS-G-2038 A-6D	EAST CAMERON 231	543,2	SEA ROBIN PIPELINE C
-TRANSCO EXPLORATION COMPANY				RECEIVED: 09/29/80 JA: LA 3			
*8059128	G0-1497	1770640364	102	A-1 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059127	G0-1509	1770640280	102	A-10 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059156	G0-1510	1770640285	102	A-11 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059139	G0-1511	1770640285	102	A-11-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059138	G0-1512	1770640283	102	A-12 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059144	G0-1513	1770640283	102	A-12-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059161	G0-1514	1770640356	102	A-13 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059164	G0-1515	1770640370	102	A-14 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL PIP
*8059163	G0-1516	1770640381	102	A-16 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059165	G0-1517	1770640392	102	A-17 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059142	G0-1518	1770640392	102	A-17-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059143	G0-1519	1770640378	102	A-19 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059141	G0-1520	1770640378	102	A-19-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059145	G0-1498	1770640238	102	A-2 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059153	G0-1499	1770640238	102	A-2-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
*8059135	G0-1500	1770640344	102	A-3 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059129	G0-1501	1770640349	102	A-4 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059147	G0-1502	1770640351	102	A-5 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059146	G0-1503	1770640351	102	A-5-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059149	G0-1504	1770640374	102	A-6 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059159	G0-1505	1770640276	102	A-7 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059133	G0-1506	1770640342	102	A-8 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059166	G0-1508	1770640363	102	A-9 (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
*8059125	G0-1507	1770640342	102	A-8-D (PLATFORM A)	VERMILION 310	1095,0	TRANSCONTINENTAL GAS
=EXXON CORPORATION				RECEIVED: 09/29/80 JA: TX 3			
*8059148	G0-1496	4271140467	102	OCS-G 2741 NO A-20	HIGH ISLAND A-243	7000,0	COLUMBIA GAS TRANS C
8059140	G0-1566	4271140476	102	OCS-G 3486 NO B-1	HIGH ISLAND A-286	5000,0	COLUMBIA GAS TRANS C
=PENNZOIL OIL & GAS INC				RECEIVED: 09/29/80 JA: TX 3			
8059167	G0-1575	4270940431	102	OCS-G 2372 HIGH IS A-489 #B-26	HIGH IS SOUTH ADD A-489	1100,0	UNITED GAS PIPE LINE
8059158	G0-1576	4270940545	102	OCS-G 2372 HIGH IS A-489 #B-28	HIGH IS SOUTH ADD A-489	2365,0	UNITED GAS PIPE LINE
=SHELL OIL CO				RECEIVED: 09/29/80 JA: TX 3			
8059160	G0-1583	4270340052	102	JA-3	MATAGORDA ISLAND 620	0,0	TRANSCONTINENTAL GAS
8059124	G0-1585	4270840057	102	OCS-G 3236 A-3	HIGH ISLAND	400,0	UNITED GAS PIPELINE
=TRANSOCEAN OIL INC				RECEIVED: 09/29/80 JA: TX 3			
*8059155	G0-1592	4270340072	102	A-7	MATAGORDA ISLAND 665	0,0	SOUTHERN NATURAL GAS

OTHER PURCHASERS VOLUME NO 298

8059125	PUBLIC SERVICE ELECTRIC & GAS CO
8059127	PUBLIC SERVICE ELECTRIC & GAS CO
8059128	PUBLIC SERVICE ELECTRIC & GAS CO
8059129	PUBLIC SERVICE ELECTRIC & GAS CO
8059153	PUBLIC SERVICE ELECTRIC & GAS CO
8059135	PUBLIC SERVICE ELECTRIC & GAS CO
8059137	TRANSCONTINENTAL GAS PL CORP
8059138	PUBLIC SERVICE ELECTRIC & GAS CO
8059139	PUBLIC SERVICE ELECTRIC & GAS CO
8059141	PUBLIC SERVICE ELECTRIC & GAS CO
8059142	PUBLIC SERVICE ELECTRIC & GAS CO
8059143	PUBLIC SERVICE ELECTRIC & GAS CO
8059144	PUBLIC SERVICE ELECTRIC & GAS CO
8059145	PUBLIC SERVICE ELECTRIC & GAS CO
8059146	PUBLIC SERVICE ELECTRIC & GAS CO
8059147	PUBLIC SERVICE ELECTRIC & GAS CO
8059148	TRUNKLINE GAS CO
8059149	PUBLIC SERVICE ELECTRIC & GAS CO
8059152	TRANSCONTINENTAL GAS P L CO
8059153	PUBLIC SERVICE ELECTRIC & GAS CO
8059155	FLORIDA GAS TRANSMISSION CO
8059156	PUBLIC SERVICE ELECTRIC & GAS CO
8059159	PUBLIC SERVICE ELECTRIC & GAS CO
8059161	PUBLIC SERVICE ELECTRIC & GAS CO
8059162	TRANSCONTINENTAL GAS P L CO
8059163	PUBLIC SERVICE ELECTRIC & GAS CO
8059164	PUBLIC SERVICE ELECTRIC & GAS CO
8059165	PUBLIC SERVICE ELECTRIC & GAS CO
8059166	PUBLIC SERVICE ELECTRIC & GAS CO
8059170	TENNESSEE GAS P L
8059190	CITIES SERVICE CO
8059191	CITIES SERVICE CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 4, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32448 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC TWN RGE	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION							
*AJAX OIL & GAS CORP INC				RECEIVED: 09/25/80 JA: KS			
8058965	K-80-0555	1509100000	108	CASEY #5		0.5	UNION GAS SYSTEM INC
8058964	K-80-0554	1509100000	108	CASEY #7		0.5	UNION GAS SYSTEM INC
8058966	K-80-0556	1509100000	108	JULIUS FINCKE #1		4.0	UNION GAS SYSTEM INC
8058963	K-80-0553	1509100000	108	MAURICE CASEY #1		0.5	UNION GAS SYSTEM INC
8058967	K-80-0557	1509100000	108	MAURICE CASEY #2		0.5	UNION GAS SYSTEM INC
8058962	K-80-0551	1509100000	108	SPRINGHILL TOWN NO 1		1.4	UNION GAS SYSTEM INC
*AMOCO PRODUCTION CO				RECEIVED: 09/29/80 JA: KS			
8059002	K-80-0663	1505500000	108	CRAIN GAS UNIT NO 1 (2ND FILING)	HUGOTON	19.0	CITIES SERVICE GAS C
8059007	K-80-0668	1505500000	108	EMMA WOOD GU A NO 1 (2ND FILING)	HUGOTON	16.0	CITIES SERVICE GAS C
8059003	K-80-0664	1509300000	108	FARIS GAS UNIT NO 1	HUGOTON	21.0	CITIES SERVICE GAS C
8059004	K-80-0665	1505500000	108	JARMER GAS UNIT NO 1 (2ND FILING)	HUGOTON	17.0	CITIES SERVICE GAS C
8059005	K-80-0666	1509300000	108	MORRIS GAS UNIT NO 1 (2ND FILING)	HUGOTON	20.0	CITIES SERVICE GAS C
8059006	K-80-0667	1508100000	108	WALLACE GAS UNIT NO 2 (2ND FILING)	HUGOTON	19.0	CITIES SERVICE GAS C
*BENSON MINERAL GROUP				RECEIVED: 09/25/80 JA: KS			
8058970	K-80-0640	1514520693	102	NUCKOLLS A #1-15	BRYANT	36.5	NORTHERN NATURAL GAS
8058952	K-80-0692	1504720680	102	SCHULTZ C #3-10	WIL EXTENSION	0.0	PANHANDLE EASTERN PI
8058978	K-80-0543	1504720676	102	SCHULTZ E #1-16	WIL EXTENSION	0.0	PANHANDLE EASTERN PI
*BEREN CORPORATION				RECEIVED: 09/25/80 JA: KS			
8058954	K-80-0700	1514520561	102	BOYD #1	BADGER HILL EXT	108.0	
8058953	K-80-0695	1504720270	108	GRIZZELL-WOOD #1	WIL POOL EXT	2.0	CENTRAL STATES GAS C
*BRADEN-DEEM INC				RECEIVED: 09/29/80 JA: KS			
8058990	K-80-0589	1500720922	103	GRAVES #1	HARDTNER	72.0	CITIES SERVICE GAS C
*BYRON E HUMMON JR				RECEIVED: 09/25/80 JA: KS			
8058973	K-80-0644	1515920945	103	DYMOND #1	BULL CREEK NORTH	144.0	PEOPLES NATURAL GAS
*BYRON E HUMMON JR				RECEIVED: 09/29/80 JA: KS			
8059008	K-80-0669	1515120715	102	EUBANK #1	WILDCAT	108.0	KANSAS POWER AND LIG
*DALE EASTMAN				RECEIVED: 09/29/80 JA: KS			
8058993	K-80-0606	1503522546	102	MURET #1	POSEY	0.0	COLONIAL CORP
*F G HOLL				RECEIVED: 09/25/80 JA: KS			
8058979	K-80-0547	1504720322	102	JOHNSON NO 1-5	WC - MASSEY WEST DISCOVE	9.0	KANSAS-NEBRASKA NATU
*F G HOLL				RECEIVED: 09/29/80 JA: KS			
8059000	K-80-0660	1504720411	103	HAWLEY NO 1-19	ENLOW	25.0	REPUBLIC NATURAL GAS
*GETTY OIL COMPANY				RECEIVED: 09/29/80 JA: KS			
8058995	K-80-0670	1511520545	103	SCULLY N NU 27-13	DURHAM CENTER EAST	73.0	CLOVER PIPELINE CORP
*GREEN WOLF OIL COMPANY				RECEIVED: 09/25/80 JA: KS			
8058971	K-80-0642	1509320556	103	MATHES-HARTMEN #2	HUGOTON	100.0	CITIES SERVICE GAS C
*HENRY PETROLEUM CORP				RECEIVED: 09/25/80 JA: KS			
8058956	K-80-0478	1503520655	108	WARREN #1	MURPHY	5.5	EUFAULA ENTERPRISES
*ILUS INDUSTRIES INC				RECEIVED: 09/25/80 JA: KS			
8058942	K-80-0106	1505320565	103	GRIFFIN #2	CANNON	180.0	NORTHERN NATURAL GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8058941	K-79-1684	1505320532	103		HELWICK #3	ELLSWORTH	160,0	NORTHERN NATURAL GAS
8058943	K-80-0110	1505320558	103		SVATY #3	ELLSWORTH	144,0	NORTHERN NATURAL GAS
*LADD PETROLEUM CORPORATION					RECEIVED: 09/25/80 JA: KS			
8058948	K-80-0407	1500700000	108		RINKE #1	PALMER	16,5	CITIES SERVICE GAS C
*LADD PETROLEUM CORPORATION					RECEIVED: 09/29/80 JA: KS			
8058997	K-80-0672	1507500000	108		HCU 0931 #1	BRADSHAW	7,0	KANSAS-NEBRASKA NATU
8058998	K-80-0673	1507500000	108		HCU 1930	BRADSHAW	12,0	KANSAS-NEBRASKA NATU
8058999	K-80-0674	1507500000	108		HCU 3120-B	BRADSHAW	10,0	KANSAS-NEBRASKA NATU
8058996	K-80-0671	1507500000	108		HCU 3221	BRADSHAW	12,0	KANSAS NEBRASKA NATU
*LEAR PETROLEUM EXPLORATION INC					RECEIVED: 09/29/80 JA: KS			
8058994	K-80-0607	1503320307	102		LEMON #1	WILDCAT	250,0	MICHIGAN WISCONSIN P
*MESA PETROLEUM					RECEIVED: 09/25/80 JA: KS			
8058959	K-80-0483	1508120181	103		J B WRIGHT 3-11	PANOMA COUNCIL GROVE	60,0	CITIES SERVICE GAS C
8058957	K-80-0480	1506720571	103		KENOWER 1-18	PANOMA COUNCIL GROVE	60,0	CITIES SERVICE GAS C
8058958	K-80-0481	1508120178	103		R L HALL 2-28	PANOMA COUNCIL GROVE	60,0	CITIES SERVICE GAS C
*NATIONAL COOP REFINERY ASSOC					RECEIVED: 09/25/80 JA: KS			
8058955	K-80-0687	1500720864	103		WERNER #1	MCGUIRE-GOEMANN	160,0	PANHANDLE EASTERN PI
*NORTHERN PUMP COMPANY					RECEIVED: 09/25/80 JA: KS			
8058949	K-80-0689	1517520464	103		SATTERFIELD #2	THIRTY-ONE	100,0	NORTHERN NATURAL GAS
*OIL PROPERTIES CO INC					RECEIVED: 09/25/80 JA: KS			
8058975	K-80-0526	1504720649	103		CUDNEY B NO 2	WIL	11,0	PANHANDLE EASTERN PI
8058976	K-80-0527	1504720667	103		WOOD A NO 2	WIL	11,0	PANHANDLE EASTERN PI
*PAR PETROLEUM INC					RECEIVED: 09/29/80 JA: KS			
8058988	K-80-0562	1507120186	103		LITTLE #1	NORTH BRADSHAW	91,3	
*PATRICK & VAUGHN					RECEIVED: 09/25/80 JA: KS			
8058938	K-80-0648	1517500000	108		CONDIT #1	UN-NAMED	18,3	ANADARKO PRUDUCTION
*PICKRELL DRILLING COMPANY					RECEIVED: 09/29/80 JA: KS			
8058992	K-80-0604	1502520349	103		BALDWIN F #1		36,5	
8058991	K-80-0603	1502520359	103		LUFT A #1		157,6	
*R CLAY UNDERWOOD					RECEIVED: 09/29/80 JA: KS			
8058987	K-80-0559A	1511920369	103		JESSIE S ADAMS B NO 6	CIMARRON BEND	1,2	PANHANDLE EASTERN PI
*RUPE OIL CO INC					RECEIVED: 09/25/80 JA: KS			
8058977	K-80-0529	1504720010	108		WELSCH #1	MCCLANAHAN EAST	14,0	KANSAS-NEBRASKA NATU
*TEXAS ENERGIES INC					RECEIVED: 09/25/80 JA: KS			
8058960	K-80-0484	1515120671	103		CURTIS NU 1	CARVER-ROBBINS	91,3	CENTRAL STATES GAS C
8058947	K-80-0356	1500720563	108		OLSON NU 1	MEAIRS EXTENSION	16,4	CENTRAL STATES GAS C
8058961	K-80-0485	1515120721	103		WARD NU 2-12	CARVER-ROBBINS	91,3	CENTRAL STATES GAS C
*TEXAS ENERGIES INC					RECEIVED: 09/29/80 JA: KS			
8058989	K-80-0568	1515120704	103		BARNES NU 1-25	BARNES	0,0	CENTRAL STATES GAS C
*TEXAS OIL & GAS CORP					RECEIVED: 09/25/80 JA: KS			
8058937	K-80-0647	1507720591	103		ANTHONY #1	SULLIVAN	365,0	NORTHERN GAS PRODUCT
8058968	K-80-0626	1509720623	103		EINSEL H #1	TRI-COUNTY PROSPECT	365,0	KANSAS-NEBRASKA
8058939	K-80-0649	1515520673	103		HILL B #1	ZENITH-PEACE CREEK	182,5	PEOPLES NATURAL GAS
8058974	K-80-0645	1509520963	103		KELLY #1	MAPLE GROVE	292,0	NORTHERN GAS PRODUCT
8058936	K-80-0646	1500720585	103		TRINITY UMC #1	SULLIVAN	365,0	NORTHERN GAS PRODUCT
*TOMLINSON OIL CO INC					RECEIVED: 09/25/80 JA: KS			
8058950	K-80-0690	1518500000	108		BROWNE NO 1	MACKSVILLE	1,5	KANSAS NEBRASKA NATU
8058951	K-80-0691	1518500000	108		WALKER NO 1	BENSON SE	8,2	KANSAS NEBRASKA NATU
*VILAS OIL & GAS PRODUCTION GROUP					RECEIVED: 09/25/80 JA: KS			
8058944	K-80-0206	1520520601	103		BLACK #1	VILAS	60,0	CITIES SERVICE GAS C
8058945	K-80-0207	1520520604	103		BLACK #2	VILAS	60,0	CITIES SERVICE GAS C
8058946	K-80-0208	1520520605	103		BLACK #3	VILAS	60,0	CITIES SERVICE GAS C

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
*W R MURFIN D/B/A MURFIN DRILLING CO				RECEIVED: 09/25/80 JA: KS			
8058972	K-80-0643	1504720433	103	FISHER #1-36 GAS UNIT	ENGLISH	26,0	CENTRAL STATES GAS C
8058940	K-80-0650	1502320093	108	VAN DYKE #1-10 GAS UNIT	CHERRY CREEK	9,0	KANSAS-NEBRASKA NATU
*WALLACE OIL & GAS INC				RECEIVED: 09/29/80 JA: KS			
8059001	K-80-0661	1507520320	103	MCDONALD #2	KANSAS HUGOTON	182,4	PEOPLES NATURAL GAS
*WAYNE E WALCHER				RECEIVED: 09/25/80 JA: KS			
8058969	K-80-0638	1515120251	108	ROBERT #1	IUKA-CARMI	5,5	CENTRAL STATES GAS C
**********							
LOUISIANA OFFICE OF CONSERVATION							
**********							
*ERGON INC				RECEIVED: 09/08/80 JA: LA			
8057878	80-3014	1711121346	108	JOE C MILLER NO 3	MONROE (6824)	7,8	TEXAS GAS TRANSMISSI
*LOUISIANA GENERAL PETROLEUM CORP				RECEIVED: 09/26/80 JA: LA			
8058983	80-1421	1703121174	102	BARNES NO 1 SER NO 166476	BENSON	300,0	LOUISIANA INTRASTATE
8058982	80-1078	1703120902	102	EVANS NO 1	BENSON	500,0	LOUISIANA INTRASTATE
8058984	80-1080	1703121086	102	EVANS NO 2	BENSON	400,0	LOUISIANA INTRASTATE
8058980	80-1079	1703121054	102	HALL NO 1	BENSON	500,0	LOUISIANA INTRASTATE
*PENN EXPLORATION CORP				RECEIVED: 09/24/80 JA: LA			
8058925	80-2663	1707522679	102	H J HARVEY #1	FORT JACKSON	185,0	SOUTHERN NATURAL GAS
*TEXACO INC				RECEIVED: 09/24/80 JA: LA			
8058924	80-2662	1710121132	102	S L 340 ATCHAFALAYA BAY #37	BELLE ISLE	3650,0	UNITED GAS PIPE LINE
*TRANSCO EXPLORATION COMPANY				RECEIVED: 09/26/80 JA: LA			
8058981	80-1866	1703121091	102	T J LAWRENCE EST NO 1	SPIDER	0,0	LOUISIANA INTRASTATE
*WILLIAMS EXPLORATION COMPANY				RECEIVED: 09/24/80 JA: LA			
8058923	80-2660	1771420071	102	STATE LEASE 7655 NO 3	TIMBALIER BAY	1095,0	LOUISIANA RESOURCES
8058922	80-2659	1771420073	102	STATE LEASE 7655 NO 4	TIMBALIER BAY	1460,0	LOUISIANA RESOURCES
*WWF OIL CORPORATION				RECEIVED: 09/24/80 JA: LA			
8058926	80-2667	1710121124	102	S L 4801 #5	ATCHAFALAYA BAY	365,0	TENNESSEE GAS PIPELI
**********							
MONTANA BOARD OF OIL & GAS CONSERVATION							
**********							
*MIDLANDS GAS CORPORATION				RECEIVED: 09/30/80 JA: MT			
*8058935	1-80-11	2507121150	108	1852 ARCHIE DUNBAR 1-18	BOWDOIN	22,0	KANSAS-NEBRASKA NATU
*8058934	9-80-195	2507121567	108	2171 1-2171 R ANDERSON	BOWDOIN	25,0	KANSAS-NEBRASKA NATU
**********							
NORTH DAKOTA GEOLOGICAL SURVEY							
**********							
*JOSEPH J C PAINE				RECEIVED: 09/30/80 JA: ND			
8058932	279	3301100288	108	CHAPMAN #3-28	LITTLE MISSOURI	10,0	MONTANA DAKOTA UTILI
8058931	278	3301100260	108	RINGSTAD #1	LITTLE MISSOURI	7,5	MONTANA DAKOTA UTILI
8058933	280	3301100284	108	WOLL #1-33	LITTLE MISSOURI	0,0	MONTANA DAKOTA UTILI
**********							
** U.S. GEOLOGICAL SURVEY - METAIRIE,LA							
**********							
*AMINOIL DEVELOPMENT INC				RECEIVED: 09/26/80 JA: LA 3			
8058986	G9-561	1771140381	102	SHIP SHOAL BLOCK 223 #B-15A	SHIP SHOAL 223	850,0	TRANSCONTINENTAL GAS
**********							
** U.S. GEOLOGICAL SURVEY - CASPER,WY							
**********							
*MIDLANDS GAS CORPORATION				RECEIVED: 09/26/80 JA: MT 5			
8058985	M-109-0	2507121558	108	1942 #1 FEDERAL	BOWDOIN	21,0	KANSAS-NEBRASKA NATU
*TRICENTROL UNITED STATES INC				RECEIVED: 09/29/80 JA: MT 5			

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8058928	M-14-0	2500522067	102		U S 25-10-25-17	HUEBSCHWERLEN UNIT	35,0	NORTHERN NATURAL GAS
*GAS PRODUCING ENTERPRISES INC			RECEIVED: 09/29/80		JA: UT 5			
8058930	UC5-0	4304730479	102		NBU 59-24B 30479	NATURAL BUTTES UNIT	67,0	COLORADO INTERSTATE
8058927	UC4-0	4304730477	102		NBU 62-35B 30477	NATURAL BUTTES UNIT	101,0	COLORADO INTERSTATE
*BURTON/HAWKS INC			RECEIVED: 09/29/80		JA: WY 5			
8058929	W1255-9	4901320891	102		NO 33-1 LOST CREEK FEDERAL	LOST CREEK (ABD)	40,0	

OTHER PURCHASERS VOLUME NO 1297

8058934 MONTANA-DAKOTA UTILITIES
8058935 MONTANA-DAKOTA UTILITIES

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials is the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 4, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32447 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-85-M

Western Area Power Administration

Floodplain/Wetlands Involvement Determination for the Cottonwood-Elverta No. 3 230-Kilovolt Transmission Line Rehabilitation Proposal, Shasta, Tehama, and Butte Counties, Calif.

AGENCY: Western Area Power Administration, U.S. Department of Energy.

ACTION: Notice of floodplain/wetlands involvement and opportunity for comment.

SUMMARY: The Western Area Power Administration (Western) proposes to rehabilitate 68 miles of the Cottonwood-Elverta #3 230-Kilovolt transmission line from Cottonwood, California, in southern Shasta County, to a point north of Oroville, California, in Butte County. Western is proposing to replace deteriorated existing wood pole structures with steel lattice towers and upgrade the conductor.

Pursuant to the requirements of the U.S. Department of Energy's procedures for Compliance with Floodplain/Wetlands Environmental Review Requirements, Part 1022 of Chapter X of Title 10 of the Code of Federal Regulations, Western has determined that the rehabilitation proposal will involve some activities within floodplain/wetlands at a few locations. Based on examination of the Federal Insurance Administration's (Department of Housing and Urban Development) Flood Hazard Boundary Maps for the area, floodplain/wetlands will be encountered at the following locations: Cottonwood Creek, Mud Creek, Butte Creek, Sycamore Creek, Hamlin Slough, Little Dry Creek, Clear Creek, Fallagher Creek, and Dry Creek. Maps and further information are avialble from Western at the addresses given below. Public comments or suggestions on Western's activities in these particular floodplain/wetlands are invited.

DATE: Any comments are due November 3, 1980.

ADDRESS: Send comments or suggestions to: Mr. Gordon Estes, Area Manager, Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Gary W. Frey, Environmental Mananger, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303)231-1527.

Issued at Golden, Colorado, October 9, 1980.

Robert L. McPhail,

Administrator.

[FR Doc. 80-32439 Filed 10-16-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180499; PH-FRL 1637-3]

Michigan, Minnesota, New York and North Dakota; Issuance of Specific Exemptions To Use Paraquat Dichloride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Michigan, Minnesota, and North Dakota Departments of Agriculture, and the New York State Department of Environmental Conservation (hereafter referred to as "Michigan," "Minnesota," "New York," and "North Dakota" or the "Applicants") to use Ortho Paraquat CL (paraquat dichloride) as a desiccant on dry beans. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: Minnesota's and South Dakota's specific exemptions expire on September 30, 1980; Michigan's and New York's expire on October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicants, fall rains, high humidity, and green plants interfere with dry bean harvest. The Applicants state that cool summer nights during this growing season have delayed plant maturity, promising to make the dry bean harvest late ths fall and usual fall rains more hazardous than normal. Green beans make the operation of harvest machinery difficult and the leaves slow the drying of soil enough to prevent the machinery from passing through the fields, if heavy rains occur. In some cases, cool wet weather causes the regrowth of the plants. Weather-damaged, moldy, and sun-darkened or discolored beans are a major problem under such conditions, the Applicants report.

In more arid dry bean-growing regions of the United States, green plants are pulled, windrowed and allowed to dry before threshing. According to the Applicants, windrowed beans, even under more favorable conditions, become wet and the beans mold, rot, or sprout. No desiccant is presently registered for use on dry beans. Ortho Paraquat CL is currently registered as a harvest aid of soybeans and potatoes. Aerial application of paraquat dichloride is currently approved for desiccation of soybeans.

Michigan, Minnesota, and North Dakota are under contract with Mexico for beans. Due to the late planting of the bean crop, without a desiccant the contracts might be impossible to fulfill and farmers may not be able to market the beans otherwise. Without the use of a desiccant, the Applicants project the following possible losses to dry bean producers: Michigan—$9 million; Minnesota—$4,013,000 or more; New York—$5 million; and North Dakota—$1,630,000.

The Applicants proposed a single application of paraquat dichloride at a rate of 0.25 to 0.5 pound active ingredient (a.i.) in 20 to 40 gallons of water per acre by ground or in 5 gallons of water per acre by air.

EPA has determined that residues of paraquat in or on dry beans should not exceed 0.4 part per million (ppm) from the proposed use. This residue level has been judged adequate to protect the public health. EPA has also determined that the proposed use should pose no unreasonable threat to the environment.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, Minnesota and North Dakota have been granted specific exemptions to use the desiccant noted above until September 30, 1980, and Michigan and New York until October 15, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Use of the product Paraquat CL, EPA Reg. No. 239-2186 manufactured by Chevron Chemical Company, is authorized. If an unregistered label is used, it must contain the identical,

applicable precautions and restrictions which appear on the registered label;

2. A single application of paraquat dichloride at the rate of 0.25 to 0.5 pound a.i. per acre will be made;

3. Application will be made in 20 to 40 gallons of water per acre by ground equipment or in 5 gallons of water per acre by air equipment;

4. The following maximum acreage may be treated: 171,000 acres in Michigan, 30,000 acres in Minnesota, 20,000 acres in New York, and 110,000 acres in North Dakota;

5. The following maximum quantity of a.i. may be applied: 85,000 lbs. in Michigan, 18,000 lbs. in Minnesota, 10,000 lbs. in New York, and 55,000 lbs. in North Dakota;

6. All applications will be made by State-certified commercial or private applicators or persons under their direct supervision;

7. A pre-harvest interval of 7 days will be observed. Treated fields are not to be grazed and treated foliage is not to be fed to livestock;

8. Applications should not be made when weather conditions favor drift from the application site;

9. All applicable directions, precautions, and restrictions on the EPA-registered product label must be followed;

10. Dry beans with residues of paraquat not exceeding 0.4 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of these actions;

11. A full report summarizing the results of its program must by submitted by each of the Applicants to EPA by April 15, 1981;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of paraquat dichloride in connection with these exemptions; and

13. The Applicants are each responsible for assuring that all of the provisions of its specific exemption are met.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 9, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-32357 Filed 10-16-80; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51105A; TSH-FRL 1637-4]

Polyisobutenyl Succinic Anhydride Reaction Products With Substituted Ethanol; Premanufacture Notice and Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for a premanufacture notice (PMN) for which the review period commenced on July 16, 1980, under section 5(c) of the Toxic Substances Control Act (TSCA). See Notice of Receipt published in the Federal Register of August 6, 1980 (45 FR 52241). The generic identity of the substance covered by PMN P80-172 is polyisobutenyl succinic anhydride reaction products with substituted ethanol.

The review period for this substance is now scheduled to end on January 12, 1981. The PMN described a chemical substance that would be manufactured for a use claimed confidential. The submitter of the PMN also claimed his identity to be confidential along with individual exposure, environmental release, processing, byproducts, disposal, and production volume information.

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Environmental Protection Agency, Room 210 East Tower, 401 M St., SW., Washington, D.C. 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA any person who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a PMN to EPA prior to commencement of manufacture or import. In general, section 5 provides that EPA must complete its review of a PMN within 90 days of its receipt by the Agency. However, under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt.

EPA issued proposed rules to implement the premanufacture notification program published in the Federal Register of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed regulation addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good cause to extend the notice period. Although EPA has not yet promulgated these rules, the example in the proposal that would apply in this case is that:

> EPA has received the notice and has determined that there is a significant possibility that the chemical will be regulated under section 5(e) or section 5(f) of the Act, but the Agency is unable to initiate regulatory action within the initial 90-day period (44 FR 2273).

Review to Date

EPA's initial evaluation of the subject PMN substance entailed review of information that the manufacturer supplied in the PMN and in subsequent submissions to EPA. EPA also conducted literature searches on the PMN substance and on structurally similar substances, i.e., structural analogues.

Using the information, EPA assessed seven major areas of potential concern: process chemistry, uses, worker and consumer exposures, environmental releases, health effects, environmental fate, and ecological effects. The Agency also considered other factors, such as economics and impacts on technological innovation, that are not directly associated with the assessment of the risks that the PMN substance may present to human health and the environment. When EPA completed this initial screening of the substance, the Agency concluded that it needed to conduct a more thorough review of certain aspects to focus on specific areas of concern.

The initial results of these assessents are summarized below:

1. EPA is concerned about potential risks that the substance may pose to humans. The intended use of the PMN substance can reasonably be expected to produce a highly toxic chemical. The carcinogenic and toxic properties of the substance expected to be generated in use are well established. The manufacturer supplied little information in the PMN or in subsequent communications that would comment or bear any light on the PMN substance's potential, while in use or storage, to generate the substance with known tumorigenic activity.

2. EPA can predict that a significant number of workers both in processing and use operations will come into contact with the toxic substance that is likely to be generated. Such contact will involve both dermal and inhalation exposure routes.

3. The lack of adequate information on the formation of the toxic substance when the PMN substance is stored or used as intended, the known toxicity of the substance expected to be generated, and the potential for broad human exposure give rise to the increased

possibility that the PMN chemical will be regulated under section 5 of the Act.

Extension of the Review Period

Therefore, EPA has entered the PMN into another series of analyses, the Detailed Review Process. During the Detailed Review, Agency staff will conduct further evaluations and assessments of the following: (1) The mechanism for formation of the highly toxic chemical associated with processing, use, and disposal of the PMN substance and (2) the nature and extent of risks to human health posed by the formation of this toxic chemical, and (3) the exposure associated with the toxic chemical during processing, use, and disposal.

On the basis of the cited concerns raised during EPA's evaluation of the PMN substance, the significant possibility of further regulation under section 5, and because of the limited time before the end of the review period for the substance (which closes on October 14, 1980), EPA has determined that good cause exists to extend the notice period for an additional 90 days, until January 12, 1981.

EPA needs additional time to assess this chemical substance to determine if regulatory controls are appropriate. During the additional 90 days EPA will: (1) evaluate the need for additional data on the substance, (2) determine the need for regulatory control in light of EPA's concerns about the substance, and (3) examine possible control options. Extension of the notice period preserves EPA's authority to initiate a regulatory action under section 5 of TSCA if the Agency concludes that such an action is appropriate.

The PMN, summaries of communications between the submitter and EPA, and other written material, are available for public inspection in Room 447, East Tower, at the EPA Headquarters address given above. The public record is available from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. All information that the manufacturer has claimed to be confidential has been deleted from the documents in the public record.

Dated: October 10, 1980.

Edwin A. Clark II,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-32358 Filed 10-16-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 80-559 and 80-560; File Nos. BPH-781227AE and BPH-790328AR]

Millard Orick, Jr. and Rim-Co, Inc.; Hearing Designation Order

Adopted: September 16, 1980.

Released: October 8, 1980.

In the matter of applications of Millard Orick, Jr., Payson, Arizona, Req: 103.9 MHz, Channel 280 1kW (H&V), 473 feet (BC Docket No. 80-559, File No. BPH-781227AE) and Rim-Co, Inc., Payson, Arizona, Req: 103.9 MHz, Channel 280.3 kW (H&V), 813 feet (BC Docket No. 80-560, File No. BPH-790328AR for a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) the above-captioned mutually exclusive applications of Millard Orick, Jr. (Orick) and Rim-Co, Inc. (Rim-Co); (ii) a petition to assign a new file number and dismiss the Rim-Co application, filed by Orick; and, (iii) pleadings related thereto.[1]

2. *Rim-Co.* Applicants for new broadcast facilities are required to demonstrate the financial ability to build and operate the proposed station for three months. Rim-Co's bank loan commitment letters have by their own terms expired, rendering the applicant's financial status unclear. To remedy this deficiency, the applicant will be required to submit current loan commitment letters to the presiding Administrative Law Judge.

3. Rim-Co has failed to demonstrate substantial compliance with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). The applicant has failed to submit data to indicate the minority, racial and ethnic breakdown of Payson, as required by Question and Answer 9 of the Primer. It appears from other available information that Payson has a significant American Indian Population. Rim-Co has not shown consultations with American Indian leaders in its ascertainment effort, as required by Question and Answer 10 of the *Primer*. Moreover, the applicant has not listed all ascertained community problems, as required by Question and Answer 22 of the Primer. Accordingly, a limited ascertainment issue will be specified.

4. *Other Matters.* Rim-Co's application contains an engineering statement which indicates that the 3.16 millivolt per meter contour of the proposed station will not encompass all of the community of Payson, the proposed city of license. Rim-Co accordingly requests a waiver of Section 73.315(a). In support of its waiver request, Rim-Co notes that 81.8% of Payson is within the contour, that most commercially zoned portions of the central business area lie within that contour, that the entire corporate boundary of Payson lies within the 68.0 dBu contour, as determined from the F (50,50) FM channel curves, that the proposed operation will provide a first aural service to 1,988 persons in an isolated community and that the selected site will provide the largest possible coverage area and, in addition, will provide the best coverage to the north and east of Payson—the directions of current growth. Further, Rim-Co asserts that its operation, as proposed, will comply with the intent of Section 73.315(a)—*to wit*, "to provide good radio service to the public." In his petition Orick contends that only 75.1% of Payson falls with Rim-Co's proposed 3.16 mV/m contour, and that the area that would not receive the required signal strength is substantially populated (over 300 homes) and experiencing significant growth. Thus, it appears that Rim-Co's waiver request raises a substantial and material question of fact which requires adjudicative hearing. Accordingly, an issue will be designated to determine the appropriateness of Rim-Co's waiver request.

5. On April 2, 1980, Rim-Co amended its application to show the inclusion of Eugene Voyles as a shareholder of the applicant corporation. Orick, in his petition, asserts that such an amendment constitutes a major change of ownership and control within the meaning of Sections 73.3540 and 73.3573(b) because Rim-Co shareholder Virginia LaRue's stock interest was reduced from 68% to 45.05%. The amendment does not constitute a major change that would require assignment of a new file number because 50% of Rim-Co's stock is not changing hands. See *Barnes Enterprises, Inc.*, 55 FCC 2d 721, 35 RR 2d 176 (1975). Accordingly, Orick's petition will be denied with respect to Rim-Co's amendment.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals.

[1] Pursuant to the Commission's recent decision in *K & L Communications, Inc.*, 70 FCC 2d 1987, 45 RR 2d 187 (1979), the Orick petition will be treated as an informal objection and will be disposed of in accordance with the policies expressed in Section 0.281(b)(1) of the Rules.

Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place specified in a subsequent Order, upon the following issues:

1. To determine whether Rim-Co has complied with Questions 9, 10 and 22 of the *Primer* in connection with its ascertainment effort.

2. To determine whether Rim-Co's proposed operation would provide adequate coverage to Payson, the proposed city of license, as required by Section 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant a waiver of that Section.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, that Rim-Co submit current loan commitment letters to the presiding Administrative Law Judge to demonstrate its financial qualifications.

10. It is further ordered, that Orick's petition to dismiss and assign a new file number to the Rim-Co application is granted to the extent indicated above and DENIED in all other respects.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-32395 Filed 10-16-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-20; Released Sept. 29, 1980]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-Off Date: November 7, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after November 7, 1980. An application, in order to be considered with any application appearing on the attached list or with any application on file by the close of business on November 7, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on November 7, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on November 7, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

BPH-800502AA (new) Haskell, Texas, Rolling Plains Broadcasting Corp., Req: 95.5 MHz; Channel No. 238C, ERP: 100 kW; HAAT: 529 Ft.

BPH-800714AM (new) Martinez, Georgia, Columbia County Broadcasters, Req: 94.3 MHz; Channel No. 232A, ERP: 3 kW; HAAT: 300 Ft.

BPH-800716AC (WXTQ) Athens, Ohio, WATH, Inc., HAS: 105.5 MHz; Channel No. 288A, ERP: 3 kW; HAAT: 290 Ft. (LIC), Req: 105.5 MHz; Channel No. 288A, ERP: 3 kW; HAAT: 300 Ft.

BPED-790723AI (KBHU-FM) Spearfish, South Dakota, Black Hills State College, HAS: 89.1 MHz; Channel No. 206DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 89.1 MHz; Channel No. 206A, ERP: .100 kW; HAAT: —322 Ft.

BPED-791211AB (KGRG) Auburn, Washington, Green River Community College, HAS: 89.9 MHz; Channel No. 210DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 89.9 MHz; Channel No. 210A, ERP: .100 kW; HAAT: 185.3 Ft.

BPED-791218AB (new) McDonough, Georgia, Mount Vernon Christian School, Req: 90.7 MHz; Channel No. 214A, ERP: .3 kW; HAAT: 451 Ft.

BPED-791221AD (KWWC-FM) Columbia, Missouri, Stephens College, a corporation, HAS: 90.5 MHz; Channel No. 213DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 90.5 MHz; Channel No. 213A, ERP: 1 kW; HAAT: 95 Ft.

BPED-791226AX (KJHK) Lawrence, Kansas, the University of Kansas, HAS: 90.7 MHz; Channel No. 214DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 90.7 MHz; Channel No. 214A, ERP: .100 kW; HAAT: 277.2 Ft.

BPED-791226AY (WAMP-FM) Toledo, Ohio, Toledo City Board of Education, HAS: 88.3 MHz; Channel No. 202DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 88.3 MHz; Channel No. 202A, ERP: .107 kW; HAAT: 123 Ft.

BPED-791226BD (KMSA) Grand Junction, Colorado, Mesa College, HAS: 91.3 MHz; Channel No. 217DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 91.3 MHz; Channel No. 217A, ERP: .500 kW; HAAT: —382 Ft.

BPED-791226BW (WAHS) Auburn Heights, Michigan, Avondale School District, HAS: 89.5 MHz; Channel No. 208D, TPO: .01 kW (LIC), Req: 89.5 MHz; Channel No. 208A, ERP: .100 kW; HAAT: 142 Ft.

BPED-791226BZ (KOVF-FM) Kearney, Nebraska, Kearney State College, HAS: 91.3 MHz; Channel No. 217DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 91.3 MHz; Channel No. 217A, ERP: 1 kW; HAAT: 117 Ft.

BPED-791226CA (KHSU-FM) Arcata, California, Humboldt State University, HAS: 90.5 MHz; Channel No. 213D, TPO: .01 kW (LIC), Req: 91.5 MHz; Channel No. 218A, ERP: .100 kW; HAAT: —220 Ft.

BPED-791226CE (WDCC) Sanford, North Carolina, Central Carolina Technical College, Req: 90.5 MHz; Channel No. 213A, ERP: 3 kW; HAAT: 148 Ft.

BPED-791226CJ (WBGD) Bricktown, New Jersey, Brick Township Board of Education, HAS: 91.9 MHz; Channel No. 220D, TPO: .01 kW (LIC), Req: 91.9 MHz; Channel No. 220A, ERP: .189 kW; HAAT: 40.45 Ft.

BPED-791226CM (KRBM) Pendleton, Oregon, Blue Mountain Community College, HAS: 90.9 MHz; Channel No. 215D, TPO: .01 kW (LIC), Req: 90.9 MHz; Channel No. 215A, ERP: .437 kW; HAAT: —185 Ft.

BPED-791226CV (KZUU) Pullman, Washington, Washington State University, HAS: 90.7 MHz; Channel No. 214DS, ERP: .016 kW; HAAT: 105 Ft. (LIC), Req: 90.7 MHz; Channel No. 214A, ERP: .422 kW; HAAT: 106 Ft.

BPED-791227AO (WVUM) Coral Gables, Florida, WVUM, Inc., HAS: 90.5 MHz; Channel No. 213DS, ERP: .01 kW; HAAT: Ft. (LIC), Req: 90.5 MHz; Channel No. 213A, ERP: .368 kW; HAAT: 190 Ft.

BPED-800616BA (new) Cumming, Georgia, Curriculum Development Foundation, Inc., Req: 91.5 MHz; Channel No. 218A, ERP: .220 kW; HAAT: 912 Ft.

[FR Doc. 80-32399 Filed 10-16-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-14; Released Oct. 16,1980]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-Off Date: November 24, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with any application listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on November 24, 1980. Any application previously accepted for filing and in conflict with any application listed in the attached appendix may also be amended as a matter of right not later than the close of business on November 24, 1980. Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

BPCT-800908KE (New), Tallahassee, Florida, Holt Robinson Television, Inc., Channel 40, ERP: Vis. 660 kW; HAAT: 820 feet

BPCT-800908KF (New), Tallahassee, Florida, Octagon Broadcasting Company, Channel 40, ERP: Vis. 20 kW; HAAT: 565 feet

BPCT-800908KI (New), Tallahassee, Florida, JGM, Inc., Channel 40, ERP: Vis. 3837 kW; HAAT: 403 feet

BPCT-800908KG (New), Everett, Washington, Unity Broadcasting Company, of Washington, State, Inc., Channel 16, ERP: Vis. 5000 kW; HAAT: 1275 feet

BPCT-800908KH (New), Everett, Washington, FNI Communications, Inc., Channel 16, ERP: Vis. 5000 kW; HAAT: 1305 feet

BPCT-800908KJ (New), Everett, Washington, Channel 16, Inc., Channel 16, ERP: Vis. 5000 kW; HAAT: 1275 feet

BPCT-800818KF (New), Wilmington, Delaware, HHL Broadcasting, Inc., Channel 61, ERP: Vis. 2290 kW; HAAT: 980 feet

BPCT-800826KE (New), Wilmington, Delaware, Delaware Valley Broadcasting, Inc., Channel 61, ERP: Vis. 1245 kW; HAAT: 963 feet

BPCT-801001KI (New), Wilmington, Delaware, Wilmington Channel 61, Inc., Channel 61, ERP: Vis. 5000 kW; HAAT: 1460 feet

BPCT-801001KX (New), Wilmington, Delaware, Ebony Broadcasting Corporation, Channel 61, ERP: Vis. 1533 kW; HAAT: 647 feet

BPCT-801001LE (New), Wilmington, Delaware, Wilmington Communications, Inc., Channel 61, ERP: Vis. 3090 kW; HAAT: 954 feet

BPCT-801001LF (New), Wilmington, Delaware, Wilmington Broadcasting Company, Channel 61, ERP: Vis. 5000 kW; HAAT: 990 feet

BPCT-801001KK (New), Sherman, Texas, 2020 Broadcasting Corporation, Channel 20, ERP: Vis. 5000 kW; HAAT: 1018 feet

BPCT-800710KH (New), Major Amendment, Rawlins, Wyoming, Strang Telecasting, Inc., Channel 11, ERP: Vis. 316 kW; HAAT: 854 feet

[FR Doc. 80-32398 Filed 10-16-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Altamaha Bancshares, Inc.; Formation of Bank Holding Company

Altamaha Bancshares, Inc., Uvalda, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Altamaha Bank and Trust Company, Uvalda, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 8, 1980.

Jefferson A. Walker

Assistant Secretary of the Board.

[FR Doc. 80-32363 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Barnett Banks of Florida, Inc.; Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Hobe National Bank, Hobe Sound, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32362 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Baxter Insurance Agency, Inc.; Proposed Retention of Insurance Business

Baxter Insurance Agency, Inc., Baxter, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to act as an insurance agency.

Applicant states that it would continue to directly engage in the general insurance agency business in a community with a population of less than 5,000. These activities would be performed from offices of Applicant in Baxter, Iowa, and the geographic area to be served includes northwest Jasper County, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 10, 1980.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32361 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

First Bancshares of Muskogee, Inc.; Formation of Bank Holding Company

First Bancshares of Muskogee, Inc., Muskogee, Oklahoma, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First of Muskogee Corporation, Muskogee, Oklahoma. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 6, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32364 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

First Gwinnett Bancshares, Inc.; Formation of Bank Holding Company

First Gwinnett Bancshares, Inc., Lawrenceville, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Gwinnett County. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received no later than November 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32365 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

First State Bancorporation of Watonga, Inc; Formation of Bank Holding Company

First State Bancorporation of Watonga, Inc., Watonga, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank, Watonga, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32366 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

First Western Bancorp; Formation of Bank Holding Company

First Western Bancorporation, LaJara, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank, LaJara, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32367 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Garrett Bancshares Ltd.; Formation of Bank Holding Company

Garrett Bancshares Ltd., Bloomfield, Iowa, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Davis County Savings Bank, Bloomfiled, Iowa. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32368 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Green City Bancshares, Inc.; Formation of Bank Holding Company

Green City Bancshares, Inc., Green City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers Bank of Green City, Green City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32369 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Jones National Corp.; Formation of Bank Holding Company

Jones National Corporation, Seward, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Jones National Bank and Trust Company of Seward, Seward, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32370 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Kennedy Bancshares, Inc.; Formation of Bank Holding Company

Kennedy Bancshares, Inc., Bancroft, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88 percent or more of the voting shares of Farmers and Traders Savings Bank, Bancroft, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32371 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

Moore Financial Corp.; Formation of Bank Holding Company

Moore Financial Corporation, Berwyn, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.12 percent of the voting shares of Commercial National Bank of Berwyn, Berwyn, Illinois. Applicant will temporarily be a wholly-owned subsidiary of Conlon-Moore Corporation, Berwyn, Illinois, which now owns 85.12 percent of the bank's voting shares. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32372 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

P & C Bank Shares, Inc.; Formation of Bank Holding Company

P & C Bank Shares, Inc., Camilla, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 53.73 percent or more of the voting shares of Planters & Citizens Bank, Camilla, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 10, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32373 Filed 10-16-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Compagnie Francaise des Petroles is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all the stock of Vickers Petroleum. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Compagnie Francaise. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–32457 Filed 10–16–80; 8:45 am]

BILLING CODE 6750–01–M

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Crouse-Hinds Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all the stock of Belden Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–32458 Filed 10–16–80; 8:45 am]

BILLING CODE 6750–01–M

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Penn Central Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all the stock of Butler-Johnson, Inc. from Mr. H. Blume Johnson. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mr. Johnson. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 26, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–32459 Filed 10–16–80; 8:45 am]

BILLING CODE 6750–01–M

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: American Industries, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Gilmore Steel Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 25, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32456 Filed 10-16-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

GSA Bulletin FPR 48 Federal Procurement; Energy Conservation

October 8, 1980.

To: Heads of Federal agencies.

Subject: Federal procurement policy concerning energy conservation.

1. *Purpose.* This bulletin reemphasizes the importance of considering energy conservation in acquisition decisions.

2. *Expiration date.* This bulletin expires October 8, 1981 unless earlier revised or superseded.

3. *Background.*

a. The Office of Federal Procurement Policy (OFPP) Policy Letter 76-1, in implementing the Energy Policy and Conservation Act (42 U.S.C. 636(a)(1)), required Executive agencies to promote energy conservation and efficiency through procurement policies and decisions. Accordingly, regulations making the requirement a mandatory standard with respect to procurements and underlying procurement and property management documents have been set forth in § 1-1.339-1 of the Federal Procurement Regulations and in Part 101-25 of the Federal Property Management Regulations.

b. The OFPP has now issued Supplement No. 1 to OFPP Policy Letter 76-1 (45 FR 47772, July 16, 1980), which reemphasizes the need to conform to both the spirit and intent of those regulations. In a September 2, 1980, memorandum, OFPP encourages Agency and Industry Contact Points procuring offices to work cooperatively to give meaningful consideration to the conservation of energy.

4. *Agency action.* Energy conservation as it relates to acquisition decisions is expected to be made a matter of management emphasis throughout the Executive branch.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

Executive Office of the President

Office of Management and Budget, Office of Federal Procurement Policy

September 2, 1980.

Memorandum for: OFPP Agency and Industry Contact Points

From: Karen Hastie Williams, Administrator

Subject: Federal Contractor's Energy Conservation Programs

Under the auspices of the Interagency Federal Energy Policy Committee (sometimes referred to as the "656" Committee), this Office and the DOE's Office of Conservation and Solar Energy recently reviewed the measures taken by several Federal contractors and Government procurement activities to promote energy conservation at facilities employed in the performance of Federal contracts. The purpose of this survey was to determine if inclusion of an energy conservation clause in Federal contracts was warranted.

We have concluded that, on balance, Federal contractors are conscientiously pursuing energy conservation measures and that an energy conservation clause, per se, is not warranted as an additional stimulus. In fact, there is a general feeling that the efforts associated with administering an energy conservation clause could detract from positive measures being devoted to conservation efforts. Therefore, we have decided not to promulgate such a clause.

However, the survey did disclose that most of us still waste energy needlessly. A prime example is the use of lighting on bright days and when rooms are unoccupied. Also, industry associations could be helpful in promoting energy conservation by exchanging energy conservation ideas through such media as their newsletters to member firms.

Another area worth considering is to emphasize and discuss energy conservation during source selection for major programs. Such discussions could promote a common understanding of obstructions to energy conservation measures and cooperative means for overcoming such obstructions within the scope of the program.

Working cooperatively, I am certain that Federal contractors and procuring offices alike will continue to give meaningful consideration to the conservation of energy. Energy conservation makes good economic sense for both sides.

[FR Doc. 80-32324 Filed 10-16-80; 8:45 am]

BILLING CODE 6820-61-M

Qualifications Reviews Panel for the Position of Director, Gerald R. Ford Library Meeting

Notice is hereby given that the Qualifications Review Panel for the position of Director, Gerald R. Ford Library, will meet on October 23 and November 21 from 10 a.m. to adjournment in Room 105, National Archives and Records Service, 8th and Pennsylvania Avenue, NW., Washington, D.C. 20408.

The Panel will:

1. Develop selection criteria for the position of Director, Gerald R. Ford Library.

2. Review applications for position of Director, rank applicants, and make recommendations to the Archivist of the United States.

The meeting on October 23 will be open to the public during the discussion of item 1, above. Panel deliberations under item 2, above, are closed in accordance with exemption (6) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). If necessary, discussions under item 2 will be continued on November 21 and will also be closed to the public in accordance with 5 U.S.C. 552b(c)(6). For further information contact Richard A. Jacobs, General Services Administration (NL), Washington, D.C. 20408 (202-523-3073).

Issued in Washington, D.C., on September 23, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-32326 Filed 10-16-80; 8:45 am]

BILLING CODE 6820-26-M

Public Buildings Service

Proposed Rehabilitation of Union Station, Montgomery, Montgomery County, Ala.; Decision

September 18, 1980.

The General Services Administration, in accordance with the National Environmental Policy Act of 1969, as amended, and the Regulations issued by the Council on Environmental Quality, Section 1505.2, dated November 29, 1978, completed the Record of Decision (ROD) for the proposed project.

The Record of Decision is available at the Regional Office for public review upon request.

Statement of Decision

It has been decided after consideration of available information, that the rehabilitation of Montgomery's historic Union Station is the most suitable and feasible choice in order to provide space for the proposed agency consolidation plan.

Positive social, economic, and environmental objectives, including employment within the central business area, energy conservation by the utilization of existing resources and the ultimate reduction in total miles traveled by employees and the public, preservation of a unique historic landmark, and stabilization of the downtown Riverfront area through cooperation with local revitalization and land use plans are expected to be realized by this proposal. The rehabilitation of Union Station is the most desirable alternative in serving the tax paying public under the auspices of Congressional acts and Executive directives.

For additional information contact: Mr. W. H. Capes, Director, Operational Planning Staff (4PG), GSA, Public Buildings Service, Richard B. Russell

Federal Building and U.S. Courthouse, 75 Spring Street, SW., Atlanta, GA 30303, Telephone (404) 221–3080.

Wesley L. Johnson, Jr.,

Regional Administrator.

[FR Doc. 32327 Filed 10–16–80; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79N–0339; DESI Nos. 8615, 9152, 9188, and 50168]

Certain Ophthalmic Antibiotic Combination Drugs for Human use; Drug Efficacy Study Implementation; Followup Notice; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; Correction.

SUMMARY: In FR Doc. 80–26545 appearing at page 57776 in the Federal Register of August 29, 1980, the following corrections are made:

1. On page 5776, the paragraph entitled "Dates," is corrected to read: "Amendments to Antibiotic Forms due on or before December 1, 1980; petitions due on or before September 29, 1980."

2. On page 57778, the second full paragraph in column two is corrected to read "Batches of such drugs with labeling bearing indications other than that specified above will no longer be acceptable for certification or release after December 1, 1980."

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

Dated: October 2, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80–31973 Filed 10–16–80; 8:45 am]

BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be held at 1 p.m., Tuesday, October 21, 1980.

ADDRESS: The meeting will be held in the Hubert H. Humphrey Building Auditorium, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alexander Grant, Associate Commissioner for Consumer Affairs (HFE–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information between FDA officials and consumer representatives, by providing an opportunity for consumer representatives to present their views directly to the Commissioner and to the top managers of FDA, by seeking solutions to any problems agreed on during this communication, and by giving the agency an opportunity to discuss and communicate vital health and policy issues to the concerned public.

Dated: October 9, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–32288 Filed 10–16–80; 8:45 am]

BILLING CODE 4110–03–M

Darragh Co., Hygromycin B Premix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for the use of Darco 38% Layer Premix-H Medicated containing 44 grams hygromycin B per ton. The sponsor, Darragh Co., requested the withdrawal of approval.

EFFECTIVE DATE: October 27, 1980.

FOR FURTHER INFORMATION CONTACT: David Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Darragh Co., P.O. Box 86, Little Rock, AR 72203, is the sponsor of NADA 44–266 which provides for the use of Darco 38% Layer Premix-H Medicated which contains 44 grams hygromycin B per ton. The premix is used to make a medicated feed containing 12 grams hygromycin B per ton to be fed continuously to chickens as an aid to control certain worm infestations. The application was originally approved on April 5, 1971. By letter of April 17, 1980, the sponsor requested that approval of the NADA be withdrawn because the product is no longer manufactured.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 44–266 and all supplements thereto for Darco 38% Layer Premix-H Medicated is hereby withdrawn, effective October 27, 1980.

Dated: October 6, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80–32116 Filed 10–16–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80F–0365]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of oxirane (chloromethyl)-, polymer with ammonia, reaction product with chloromethane as an ion-exchange resin in treating food, including potable water.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s) and 348)), notice is given that a petition (FAP OA3519) has been filed by Dow Chemical Co., Midland, Michigan 48640, proposing that § 173.25 *Ion-exchange resins* (21 CFR 173.25) be amended to provide for the safe use of oxirane (chloromethyl)-, polymer with ammonia, reaction product with chloromethane as an ion-exchange resin in the treatment of food, including potable water.

The Food and Drug Administration (FDA) has carefully considered the potential environmental effects of this action and has found that the action will not have a significant impact on the human environment and that no environmental impact statement is required. FDA's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (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.

Dated: October 7, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-32290 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0401]

Eastman Chemicals Division, Eastman Kodak Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Eastman Chemicals Division, Eastman Kodak Co. has filed a petition proposing that the food additive regulations be amended to broaden the mole percentages of ethylene glycol and 1,4-cyclohexane dimethanol to 99–66 and 1–34, respectively, in the mixture used as a reactant with dimethyl terephthalate in the production of ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer intended for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) notice is given that a petition (FAP OB3523) has been filed by Eastman Chemicals Division, Eastman Kodak Co., Kingsport, TN 37662, proposing that § 177.1315 *Ethylene—1,4-cyclohexylene dimethylene terephthalate copolymer* (21 CFR 177.1315) be amended to broaden the mole percentages of ethylene glycol and 1,4-cyclohexane dimethanol to 99–66 and 1–34, respectively, in the mixture used as a reactant with dimethyl terephthalate in the production of ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer intended for food-contact use.

FDA has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting the document may be seen in the office of the Hearing Clerk (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.

Dated: October 7, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-32289 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

Farmland Industries, Inc.; Co-op Chick Fortifier; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of Co-op Chick Fortifier (amprolium) premix. Finished feeds containing the premix are fed to poultry as an aid in prevention of coccidiosis or for development of immunity to coccidiosis. The sponsor, Farmland Industries, Inc., requested the withdrawal of approval.

EFFECTIVE DATE: October 27, 1980.

FOR FURTHER INFORMATION CONTACT: Vitolis E. Vengris, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116, is the sponsor of NADA 44–364 which provided for use of Co-op Chick Fortifier (0.50 percent amprolium) premix in making finished poultry feeds. The feeds are indicated as aids in prevention of coccidiosis in broiler chickens, turkeys, and laying hens or for development of active immunity to coccidiosis in replacement chickens under conditions of slight exposure to coccidiosis. The application was originally approved November 10, 1970. By letter of April 22, 1980, the sponsor requested withdrawal of approval of the NADA because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 44–364 and all supplements for Farmland Industries, Inc., Co-op Chick Fortifier is hereby withdrawn, effective October 27, 1980.

Dated: October 6, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-32118 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

[DESI 5897; Docket No. 80N-0379]

Folic Acid Preparations, Oral and Parenteral for Therapeutic Use; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice amends a previous **Federal Register** notice for folic acid by revising the Precautions statement to be included in the labeling for these drugs. The agency believes the revised labeling more accurately states the level at which folic acid may obscure pernicious anemia.

DATE: Supplements to approved NDA's and ANDA's due on or before December 16, 1980.

ADDRESS: Communications in response to this notice should be identified with the reference number DESI 5897, directed to the attention of the appropriate office named below, and addressed top the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–03, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: David T. Read, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of April 9, 1971 (36 FR 6843), announced the conditions under which the FDA would approve new drug applications for folic acid preparations. The labeling conditions included the following precaution:

> Folic acid especially in doses abaove 1.0 mg daily may obscure pernicious anemia, in that hematologic remission may occur while neurological manifestations remain progressive.

This same precaution was required in an amendment published August 2, 1973 (38 FR 20750).

Based on available data and information the Director of the Bureau of Drugs finds that the precautions section of the labeling conditions for folic acid preparations should be amended. While obscuration of pernicious anemia does not ocur at levels of 0.1 mg for folate per day, hemotologic remissions in pernicious anemia have been reported at levels as low as 0.25 mg of folate per day. The precautions section of the labeling conditions for folic acid preparations is amended to read as follows:

Folic acid in doses above 0.1 mg daily may obscure pernicious anemia in that hematologic remission can occur while neurological manifestations remain progressive.

Supplements to approved NDA's or ANDA's providing for appropriate revision of the labeling of drug products affected by this notice should be submitted on or before December 16, 1980. The revised labeling may be put into use before FDA approves the supplemental NDA or ANDA, but it shall be put into use no later than February 17, 1981.

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 Bureau of Drugs (21 CFR 5.82).

Dated: October 6, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-32293 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

Jensen-Salsbery Laboratories; Anthelin Tablets; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) withdraws approval of a new animal drug application (NADA) providing for use of anthelin tablets as an anthelmintic in dogs. The sponsor, Jensen-Salsbery Laboratories, requested withdrawal of approval.

EFFECTIVE DATE: October 27, 1980.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Jensen-Salsbery Laboratories, Division of Burroughs-Wellcome Co., Kansas City, MO 64108, is sponsor of NADA 7–226 which provides for use of anthelin tablets as a taeniafuge (anthelmintic) in dogs. Each tablet contains 47 milligrams of anthelin (equivalent to 12.7 mg of antimony). The NADA was originally approved January 23, 1950. In their letter of April 29, 1980, the firm requested that approval of the NADA be withdrawn because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that NADA 7–226 and all supplements for anthelin tablets is hereby withdrawn, effective October 27, 1980.

In a document published elsewhere in this issue of the **Federal Register**, § 520.120 *(Anthelin tablets* is being revoked.

Dated: October 6, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-32117 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F–0359]

Mitsui Petrochemical Industries, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Mitsui Petrochemical Industries, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for an increase in the weight-percent of units derived from 4-methylpentene-1 in ethylene/4-methylpentene-1 copolymers intended for food-contact applications.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)), notice is given that a petition (FAP No. 0B3521) has been filed by Mitsui Petrochemical Industries, Ltd., c/o Keller and Heckman, 1150 17th St. NW., Washington, DC 20036, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for an increase in the weight-percent units derived from 4-methylpentene-1 in ethylene/4-methylpentene-1 copolymers intended for food-contact applications.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that document will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 7, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-32292 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F–0368]

Radiation Technology, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Radiation Technology, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to reduce or control microbial contamination in spices, natural flavorings, and dehydrated vegetable seasonings.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)), notice is given that a petition (FAP OM3516) has been filed by Radiation Technology, Inc., Lake Denmark Road, Rockaway, NJ 07866, proposing that Part 179—Irradiation in the Production, Processing and Handling of Food (21 CFR Part 179) be amended to provide for the safe use of a Cobalt 60 or Cesium 137 source of gamma radiation to reduce or control microbial contamination in spices, natural flavorings, and dehydrated vegetable seasonings by irradiating those foods at doses up to 1 megarad. This petition is being evaluated.

The agency has considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and an environmental impact statement is not required. the agency's findings of no significant impact and the evidence

supporting that document may be seen in the office of the Hearing Clerk (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.

Dated: October 7, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-32291 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 USC App. I), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: November 3, 1980 (10:00 a.m. to 5:00 p.m.), November 4, 1980 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor) HHS North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

Purpose of Meeting: The Council was established to advise the Secretary of Health and Human Services on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On October 24, 1980 a tentative agenda will be available to the public.

The meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairperson will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Cleo E. Hancock, Jr., Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 4520, Health and Human Services Building, 330 Independence Avenue, SW, Washington, D.C. 20201, (202) 245–6097.

Cleo E. Hancock, Jr.,

Staff Director, National Professional Standards Review Council.

[FR Doc. 80-32420 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

White House Conference for Children and Youth National Advisory Committee; Establishment

AGENCY: Office of Human Development Services, DHHS.

ACTION: Notice of National Advisory Committee Establishment.

PURPOSE: The National Advisory Committee, 1981 White House Conference for Children and Youth, shall provide advice and recommendations to the Secretary, Health and Human Services, to assist in planning, conducting and reviewing the conference.

DATES: The Charter for this Committee was signed by the Secretary of Health and Human Services on September 30, 1980. The Committee will terminate when it has completed its work and in any event, six months after the date of adjournment of the Conference. The Charter of the Committee shall terminate when the Committee has completed its work, or two years from the date of signature by the Secretary, whichever comes first, unless renewed by appropriate action prior to the end of the first two-year period.

FOR FURTHER INFORMATION CONTACT: Amy Potter, Special Assistant to the National Advisory Committee, White House Conference for Children and Youth, 730 Jackson Place, NW., Washington, D.C. 20006, 202/456–6440.

SUPPLEMENTARY INFORMATION: This Committee is being formed to assist in planning, conducting, and reviewing the White House Conference for Children and Youth, pursuant to Section 101 (g) of Pub. L. 96–123. The Committee is governed by the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. Appendix I, as amended, which sets forth standards for the formation and use of advisory committees.

Dated: October 10, 1980.

Mamie J. Welborne,

Human Development Services Committee Management Officer.

[FR Doc. 80-32355 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 95–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Governmental Structures will hold a meeting on October 16 and 17, 1980, in Washington, D.C. The October 16 session will be from 10 a.m. to 4:30 p.m. in Room 5542, Health and Human Services Building North, 330 Independence Avenue, S.W. The October 17 session will be from 8:30 a.m. until 3 p.m. in Room 337 and 339A in the Hubert H. Humphrey Building, 200 Independence Avenue, S.W.

At this meeting the committee will review the previously developed workplan and discuss existing and ongoing relevant studies by Government Accounting Office, Federal Council on Aging and Administration on Aging. We will also meet with and provide charge to the consultant relative to the development of the Technical Committee Report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

This announcement is being published less than 15 days advance notice because of difficulties in securing federal meeting space.

Dated: October 10, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-32359 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service
Center for Disease Control

Availability of Proposed Biosafety Guidelines for Microbiology and Biomedical Laboratories

Notice is hereby given that a proposed voluntary code of practice for

laboratories working with microorganisms infectious for humans has been developed jointly by the Center for Disease Control and the National Institutes of Health. The guidelines entitled "Proposed Biosafety Guidelines for Microbiology and Biomedical Laboratories" have been published and are available for public review and comment. Comments or requests for single copies should be directed to:

Dr. John H. Richardson, Director, Office of Biosafety, Center for Disease Control, PHS, HHS, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Telephone: (404) 329-3883, FTS: 236-3383

Dr. W. Emmett Barkley, Director, Division of Safety, National Institutes of Health, PHS, HHS, 9000 Rockville Pike, Bethesda, Maryland 20205, Telephone: (202) 496-1357, FTS: 496-1357

Dated: October 7, 1980.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 80-32453 Filed 10-16-80; 8:45 am]

BILLING CODE 4110-86-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-80-1036]

Fiscal Year 1981 Technical Assistance for Assessing Potential District Heating and Cooling System Projects; Competition for Fiscal Year 1981

AGENCY: Department of Housing and Urban Development.

ACTION: Notice establishing a competition for FY 1981 technical assistance to assess the potential for District Heating and Cooling in CDBG—eligible communities.

SUMMARY: Proposals are solicited for technical assistance to communities and other participants in identifying potential district heating system projects which will contribute to Community Development Block Grant communities' achievements of national and local community development objectives, in assessing their feasibility, in developing community consensus on whether to proceed with a project, and in developing a district heating system.

Public or private entities as well as municipalities may respond to this announcement. Where the respondent is not a CDBG-eligible community see 24 CFR 570.3 (u)(v), however, it must include a letter from the chief executive of a unit of general local government which is undertaking or planning to undertake a CDBG program indicating that: (a) the respondent's proposed activities under the cooperative agreement are for the purpose of assisting the governmental unit to plan, develop, or administer its community development program; (b) the unit of general local government will provide representation to, and fully participate in, the local DHS Assessment Work Group.

CLOSING DATE FOR PROPOSALS: January 5, 1981.

PROPOSAL FORMS: Proposal forms and program information packages are expected to be ready for mailing by November 7, 1980. They may be obtained by writing to the: Department of Housing and Urban Development, Office of Procurement and Contracts, Room B-133 (711 Bldg.) (ACC-CL), 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Christopher Lee, Department of Housing and Urban Development, Office of Procurement and Constracts, Room B-133 (711 Bldg.) (ACC-CL), 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Program information: The U.S. Department of Energy (DOE) and Department of Housing and Urban Development (HUD) are interested in promoting the use of district heating and cooling systems in CDBG-eligible communities where such systems would enhance the communities' abilities to use CDBG funds to meet community development national and local objectives. They are seeking proposals to assist in this effort. For purposes of this proposed Cooperative Agreement, DOE and HUD are defining a "community district heating/cooling system" as an energy system that generates thermal energy from one or more central plants to service a multiple number of buildings and customers with thermal services through a piping distribution network and, where possible, a storage facility. The piping system may extend throughout an entire urban area, or may be limited to a single neighborhood. These systems can contribute significantly to the ability of Community Development Block Grant communities to achieve the objectives of the Housing and Community Development Act of 1974 by lowering energy costs, reducing environmental pollution, and expanding local economic opportunities, particularly for persons of low- and moderate-income.

Other Resources Available to Applicants: Communities receiving funds under awards from this solicitation will also be eligible for technical support from DOE. Support, upon request, will come from a DOE Project Manager who will provide on-site support to the local DHS Assessment Work Group, analyzing the particular aspects of the community's situation and offering advice and counsel on the types of assessment activities it may opt to undertake. The DOE Project Manager will also provide information on the specialized technical support resources which DOE can make available. For example, energy managers from such organizations as the Argonne National Laboratory, Oak Ridge National Laboratory and Pacific Northwest Laboratory can advise on heat source possibilities (including industrial waste heat sources, geothermal sources, incinerator waste heat sources, etc.), alternative piping systems, heat storage systems, cost considerations, financing mechanisms and alternatives, etc.

Available Funds: It is estimated that approximately $1.5 million will be available for this solicitation in FY 81 subject to availability of FY 81 funds. While no maximum amount has been set, it is estimated that approximately 20-35 proposals will be funded, with amounts varying according to the complexity of the assessment program, size of potential heat service areas and communities, etc.

Applicable regulations: Regulations applicable to this program include 24 CFR Part 570.402.

[Sec. 7(d) of Department of Housing and Urban Development Act, 42 USC 3535 (d)]

Issued at Washington, D.C., October 14, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-32452 Filed 10-16-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N-80-1035]

National Mobile Home Advisory Council

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Notice of nominees selected by the secretary, Department of HUD, for appointment to the national mobile home advisory council and notice of

biannual meeting of the national mobile home advisory council.

SUMMARY: This Notice announces the nominees selected by the Secretary for appointment to the National Mobile Home Advisory Council. Their terms are for two years, ending on August 21, 1982. The terms of the other 12 members on the Council will expire on August 21, 1981. This Notice also announces a biannual meeting of the Advisory Council.

FOR FURTHER INFORMATION CONTACT: Janice Ligon, Coordinator, National Mobile Home Advisory Council, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development (Attention: Office of Mobile Home Standards, Room 3248), 451 7th Street, S.W., Washington, D.C. 20410; Telephone (202) 755–6920.

SUPPLEMENTARY INFORMATION: The National Mobile Home Construction and Safety Standards Act of 1974 (hereinafter "the Act"), 42 U.S.C. 5401 *et seq.*, requires the Secretary of the Department of Housing and Urban Development to establish Federal construction and safety standards for mobile homes. The Act also requires that the Secretary appoint a National Mobile Home Advisory Council composed of 24 members. The membership of the Council is selected equally from each of the following categories: (a) Consumer organizations, community organizations, and recognized consumer leaders; (b) the mobile home industry and related groups, including at least one representative of small business; and (c) government agencies including Federal, State and local governments. The purpose of the National Mobile Home Advisory Council is to advise the Department, to the extent feasible, prior to the establishment, amendment or revocation of any mobile home construction and safety standard.

Sections 6(a) and (b) of the Charter of the National Mobile Home Advisory Council stipulate that members are appointed to serve two-year terms which expire on August 21 of the second year of each member's appointment, unless a member is appointed to fill an unexpired term.

Nominations for the terms ending on August 21, 1980, were requested in a Notice published on May 21, 1980 in the Federal Register (45 FR 34,071 (1980)). In evaluating the qualifications of candidates, the Department also considered the following major factors in selecting the members:

(1) Achieving geographical balance, within the Council as a whole and within the three membership categories, weighing that balance according to the size of the mobile home industry and the number of homes in use in each region of the country;

(2) Appointing persons who would offer the Council a broad spectrum of views;

(3) The knowledge, experience and special qualifications of candidates;

(4) Small business representation; and

(5) Strong consumer advocation.

From the many nominations received in response to the Federal Register Notice, the Department has selected individuals whom it believes to be the most qualified to serve on the Council.

The following persons have been selected by the Secretary for appointment to the National Mobile Home Advisory Council with terms expiring on August 21, 1982:

Consumer Sector

Benjamin L. Johnson, Attorney at Law, Donaldsonville, Louisiana
John H. Jensen, Committee Chairman, Mobile Home Owners of America, Inc., Bothell, Washington
Andrew Sabhlok, Environmental Consultants, Berkeley, California
C. J. Sullivan, Andalusia, Alabama

Industry Sector

Diane Montoya, President, States Industries, Inc., Eugene, Oregon
Cecil Cullip, Consultant, Cullip Industries, Ellaville, Georgia
George W. Hammett, Vice President of Engineering, Winston Industries, Inc., Double Springs, Alabama
Charles E. Talmage, Director of Government Relations, Skyline Corporation, Elkhart, Indiana

Government Sector

Leslie G. Tingle, Residential Construction and Inspection Engineer, Division of Housing, Department of Local Affairs, State of Colorado, Denver
Travis Pitts, Operations Manager, Mobile Home Section, Department of Housing and Community Development, State of California, Sacramento
Henry Green, Chief, Building Division, Bureau of Construction Codes, Department of Labor, State of Michigan, Lansing
*James Shields, Chief, Division of Industrialized and Mobile Housing, Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg

*Mr. Shields was appointed in February 1980 to fill an unexpired term which terminated on August 21, 1980. Due to the short duration of his term, it has been extended by the Secretary and will expire on August 21, 1982.

The following members were previously appointed and will continue to serve on the Council until August 21, 1981:

Consumer Sector

Timothy Carlyle, Attorney at Law, Sullivan and Carlyle, Santa Ana, California
Suzanne Lindamood, Associate Professor, Department of Family Economics, Kansas State University, Manhattan, Kansas
William White, Federation of Mobile Home Owners of Florida, Inc., Largo, Florida
Edward Kramer, Director, The Housing Advocates, Inc., Cleveland, Ohio

Industry Sector

Raymond F. Tucker, Vice President of Engineering, Guerdon Industries, Inc., Louisville, Kentucky
Vincent J. Wanzek, Director, Product Engineering, Fleetwood Enterprises, Inc., Riverside, California
John F. DePledge, Product Manager, Prefinished Paneling, Champion Building Products, Stamford, Connecticut
Paul Stiner, Owner, Fireside Mobile Homes, Inc., Richmond, Indiana

Government Sector

Milton R. Nash, Building Code Supervisor, Department of Housing and Community Development, Commonwealth of Virginia, Richmond
Leah McCartney, Member Public Service Commission, State of Missouri, Jefferson City
Robert Leggett, Sanitarian, Health Department, State of Iowa, Des Moines
*John P. Steele, Administrator, Manufactured Housing, Department of Labor and Standards, State of Texas, Austin

*Mr. Steele serves as Chairman of the Council.

In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. I, announcement is made of the following meeting:

The National Mobile Home Advisory Council will meet on December 9, 10, 11 and 12, 1980. The meetings are open to the public and will convene at 9:00 A.M. on Tuesday, December 9, 1980 at the Sheraton-Crest Inn, 111 East First Street, Austin, Texas 78701.

Among other items, the Department plans to discuss and seek recommendations concerning evaluations and recommendations for improvements and clarifications to the Federal Mobile Home Construction and Safety Standards in the following areas:

(1) Space Planning;
(2) Fire and Egress Safety;
(3) Energy;
(4) Transportation;
(5) Plumbing Systems;
(6) Electricial Systems;
(7) Mechanical Systems;
(8) Structural and Load Testing Requirements; and
(9) General Provisions.

The final agenda will be available prior to the meeting. Inquires concerning the agenda may be made after November 10, 1980 by contacting the Office of Mobile Home Standards, HUD, at (202) 755–6920 (not a toll free number).

(Sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)); National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5404); and Federal Advisory Committee Act, (5 U.S.C. App. I), 10(a)(2).)

Issued at Washington, D.C., October 9, 1980.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-32303 Filed 10-16-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. D-80-624]

Redelegation of Authority for Regional Office, Region I (Boston)

AGENCY: Regional Office, Region I (Boston), (HUD).

ACTION: Redelegaton of Authority to Administer Oaths and Verify Complaints.

SUMMARY: This document redelegates authority to administer oaths and verify complaints under Title VIII (Fair Housing) of the Civil Rights Act of 1968.

SUPPLEMENTAL INFORMATION:

Redelegation of Authority to Administer Oaths and Verify Complaints. Each of the officials appointed to the following positions is authorized to administer oaths and verify complaints under section 811(a) of the Civil Rights Act of 1968 (42 U.S.C. 3611(a)).

1. Regional Office—a. Director, Fair Housing and Equal Opportunity Compliance Division
b. All Fair Housing and Equal Opportunity Compliance Specialists
2. Boston and Hartford Area Offices—a. Director, Fair Housng and Equal Opportunity Division
b. All Fair Housing and Equal Opportunity Specialists

SUPERCEDURE: This redelegation of authority supercedes the redelegation published at 41 FR 45617, October 15, 1976.

EFFECTIVE DATE: This redelegation of authority is effective on October 17, 1980.

Issued at Boston, Massachusetts September 4, 1980.

Joseph Vera,

Director, Office of Regional Fair Housing and Equal Opportunity Region I, Department of Housing and Urban Development.

[FR Doc. 80-32302 Filed 10-16-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Sonat Exploration Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2038 and 3537, Blocks 231 and 232, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act amendments of 1978, that the Geological Survey is considering approval of the Plan and that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:

U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 pm., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (505) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 10, 1980.

E.A. Marsh,

Staff Assistance for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32314 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Aminoil U.S.A., Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Aminoil U.S.A., Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2711, Block A–560, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:

U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 9, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32378 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ARCO Oil and Gas Co.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0438, Block 175, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 9, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32376 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Co. of California

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4000, Block 53, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1974, (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: October 9, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32377 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposed to conduct on Lease OCS 0518, Block 140, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32424 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2110, Block 307, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and

Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 8, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32426 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2937, Block 33, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002. Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 9, 1980.

E. A. Marsh,

Staff Assistant for Operations, Gulf of Mexico OCS Region.

[FR Doc. 80-32425 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[M 070475]

Montana; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the Camp Creek Campground, Montana Gulch Campground and Azure Cave Area (Zortman Park) withdrawal made by Public Land order 3938 on March 1, 1966, be continued in its entirety for a 20 year period, pursuant to the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751. 43 U.S.C. 1714. The following described land is included in the proposed continuation:

Montana Principal Meridian

T. 25 N., R. 24 E.,
Sec. 21: E½SE¼SE¼,
Sec. 22: W½SW¼SW¼,
Sec. 27: NW¼NW¼NW¼,
Sec. 28: NE¼NE¼NE¼
T. 25 N., R. 25 E.,
Sec. 16: S½NE¼NE¼, N½SE¼NE¼,
Sec. 19: E½ of Lot 7,
Sec. 20: Lot 17, W½SE¼SW¼,
Sec. 29: NW¼NW¼,
Sec. 30: E½NE¼NE¼.

Containing 240 acres in Phillips County.

The land is currently segregated from location and entry under the public land laws generally including the mining laws, but not the mineral leasing laws. The purpose of the withdrawal is to protect the public recreational values within the sites. No change is proposed in purpose or segregative effect of the withdrawal.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before November 14, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the Federal Register giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned official on or before November 14, 1980.

The authorized officer of the Bureau of Land Management will undertake such investigation as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned offices. Bureau of Land Management, U.S. Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

Dated October 7, 1980.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-32308 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

[Designation Order NM-010-8002]

New Mexico Off-Road Vehicle Designations

October 8, 1980.

AGENCY: Bureau of Land Management.

ACTION: Notice of off-road vehicle interim designation decisions.

Decision: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR 8340. The following described lands under administration of the Bureau of Land Management are designated as limited or closed to off-road motorized vehicle use.

The 32,010 acres affected by the designations are all located in the San Juan Planning Unit and in San Juan County, New Mexico. These are interim designations of four separate areas,

three of which are Wilderness Study Areas, and one which is proposed as an Area of Critical Environmental Concern. The restrictive designations are designed to protect the sensitive natural resources found within each of these areas.

Comments which influenced these designation decisions were received as a result of television announcements, a newspaper article, and 125 letters which were sent to appropriate individuals and groups. This designation order supersedes that portion of a previous closure (**Federal Register** Vol. 43, No. 108—Monday, June 5, 1978) which refers to off-road motorized vehicle use in the Bisti Badlands. The remainder of that closure order is to remain in effect.

A. Limited Designation—24,940 Acres

1. Use Limited to Existing Ways and Trails—27,160 acres.

The Ah-shi-sle-pah Wilderness Study Area (6,000 acres) is located 2½ miles north of Chaco Canyon National Monument, New Mexico. Vehicle use in this area is permitted on currently existing ways and trails.

The De-na-zin Wilderness Study Area (19,000 acres) is located 25 miles south of Bloomfield, New Mexico. Vehicle use in this area is permitted on currently existing ways and trails.

The Bisti Wilderness Study Area (3,520 acres) is located 30 miles south of Farmington, New Mexico. Vehicle use on 2,160 acres of this area is permitted on currently existing ways and trails.

2. Use Limited to Existing Roads and Trails—1,780 Acres.

The proposed Simon Canyon Area of Critical Environmental Concern (3,490) acres) is located 3 miles northwest of Navajo Dam, New Mexico. Vehicle use within this area, but above the canyon rim, is permitted on currently existing roads and trails and on any new roads that are properly approved. This area consists of 1,780 acres.

B. Closed Designation—3,070 Acres.

The central portion of the Bisti Wilderness Study Area, which consists of 1,360 acres, is closed to vehicle use to protect the fragile scenic and fossil resources located there.

Simon Canyon is closed to vehicle use to preserve the natural scenic, wildlife and cultural values found there. The closure extends from the rim downward and consists of 1,710 acres.

These designations become effective October 17, 1980 and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these designations is available for inspection at the offices listed below:

ADDRESSES: For further information about these designations, contact either of the following Bureau of Land Management offices:

District Manager, Albuquerque District Office, 3550 Pan American Fwy. NE., P.O. Box 6770, Albuquerque, NM 87107;

Area Manager, Farmington Resource Area, 900 LaPlata Hwy, P.O. Box 568, Farmington, NM 87401.

Van W. Manning,

Acting State Director.

[FR Doc. 80-32321 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

Anchorage District Advisory Council Meeting

September 30, 1980.

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Anchorage District Bureau of Land Management's Advisory Council will be held November 13, 1980, at 8:00 a.m. in the Training Room of the District Office, 4700 E. 72nd Avenue, Anchorage, Alaska 99507.

The agenda is as follows:

I. Opening remarks—Richard Tindall
II. Election of Officers—Richard Tindall
III. Review of history and status of the easement program—Pat Beckley
IV. Easement development on 1980—Darryl Fish, Lou Waller
A. Community reaction—Herbert Smelcer, Michael Harrington

Break—10:30 a.m.

V. Plans for 1981—Pat Beckley
Problem areas:
Maintenance—Jack Fisher
Monitoring—Lou Waller
Acquisition—Pat Beckley

Lunch—12:00 a.m.

Public Hearing—1:00 p.m. Council Chairperson
Formation of subcommittees deliberations—2:30 p.m. Council Chairperson

Adjournment

The meeting is open to the public. Interested persons may make oral statements to the council at 1:00 p.m. or may file a written statement for the council's consideration. Anyone wishing to appear before the council should notify the Public Information Officer, Anchorage district Office, 4700 E. 72nd Avenue, Anchorage, Alaska 99507.

Summary minutes of the council meeting will be maintained at the District Office and will be available for public inspection and reproduction during regular business hours, within 30 days of the meeting.

Donovan Yingst,

Acting District Manager.

[FR Doc. 80-32454 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

California Desert Conservation Area Proposed Plan and Final Environmental Impact Statement; Extension of the Public Comment Period

Notice is hereby given that the Public Comment Period on the Proposed California Desert Conservation Area Proposed Plan and Final Evnironmental Impact Statement (45 FR 64714) has been extended from November 3, 1980 until November 21, 1980. The extension is provided to assure that interested parties have an opportunity to review lengthy background material contained in seven volumes of appendices to the Plan and EIS.

Comments must be received by November 21, 1980 and should be sent to: Bureau of Land Management, Box 5555, Riverside, California 92517, (714) 787-1462.

Dated: October 18, 1980.

Ronald D. Hofman,

Associate State Director.

[FR Doc. 80-32427 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Closure to Motorized Vehicles; Correction

October 9, 1980

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction Document of Previous Notice.

Two corrections are hereby given for the notice which was published in the Thursday, September 18, **Federal Register**, Volume 45, Number 183, pages 62212 and 62213. Both corrections are on page 62213. The first correction is in reference to the general description of the road opening schedule with the dates shown being dependent on current weather conditions and should read as follows:

"Area from *7000'* + elevation—roads open July 1 to October 31."

The second correction under (d) should read:

"Exemptions from the proposed action will be allowed for access to and from operation *of* mining related activities according to applicable laws, regulations and Department of the Interior policy."

Dated: October 9, 1980.

L. Christian Vosler,

District Manager.

[FR Doc. 80-32423 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

Burns District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR 1780 that a meeting of the Burns District Advisory Council will be held on November 6, 1980.

The meeting will begin at 9 a.m. in the Harney County Museum Room, Burns, Oregon.

The agenda for the meeting is:

1. Introduction and a brief overview of the District's programs.
2. The role of the Advisory Council.
3. The election of a chairperson and vice chairperson.
4. The Diamond Craters Program.
5. The progress of the Drewsey project work.
6. The Wild Horse Management Plan for the coming year.
7. The Alvord Geothermal Program and the Borax Chub.
8. The Steens Off-Road-Vehicle Management Plan.
9. The Andrews Resource Area Grazing Program.
10. The District's planning efforts.
11. The Wilderness Program.

The meeting is open to the public and news media. Interested persons may make oral statements to the Council between 2 p.m. and 3 p.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720, telephone 503-573-2071, by close of business November 3, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A report of the Council meeting will be maintained at the District Office and be made available for public inspection and reproduction at the cost of duplication.

L. Christian Vosler,

District Manager.

October 8, 1980.

[FR Doc. 80-32436 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

[S 2184]

California; Partial Termination of Segregation by Classification for Multiple Use Management

Pursuant to the authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), it is ordered as follows:

1. I hereby terminate the segregative effect as specified in Paragraph 5 of the Multiple Use Classification Order of December 16, 1968 (FR Doc. 68-15279, filed December 23, 1968), published in the Federal Register December 24, 1968, No. 249, 33 FR pages 19201 and 19202, insofar as it affects the lands described below:

Mount Diablo Meridian, California

T. 46 N., R. 6 W.,
Sec. 5, NE¼SE¼.
T. 46 N., R. 7 W.,
Sec. 24, SW¼NE¼.

The areas described aggreate 80 acres.

2. Paragraph 5 of the Classification Order of December 24, 1968, segregated the lands from appropriation under the mining laws (30 U.S.C., Ch. 2). This segregative effect will terminate on the above lands October 17, 1980 as provided by the regulations in 43 CFR 2461.5(c)(2).

3. The lands remain segreated from appropriation under the agricultural land laws (43 U.S.C., Chapter 9; 25 U.S.C., Sec. 334). They shall remain open to all other applicable forms of appropriation.

James B. Ruch,

State Director.

[FR Doc. 80-32434 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

[NM 27214]

Notice of Coal Lease Offering by Sealed Bid

October 10, 1980.

U.S. DEPARTMENT OF THE INTERIOR, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. Notice is hereby given that at 2:00 p.m., November 13, 1980, certain coal resources in the land hereinafter described in McKinley County, New Mexico, will be offered for competitive lease by sealed bid of $25 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 575, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer. The sale will be held in Room 2004, State Director's Conference Room, Bureau of Land Management, on the second floor of the U.S. Post Office and Federal Building, located on South Federal Place, Santa Fe, New Mexico.

Sealed bids must be submitted on or before 2:00 p.m., November 13, 1980, to the Cashier, Room 3031, Bureau of Land Management, New Mexico State Office, U.S. Post Office and Federal Building, P.O. Box 1449, Santa Fe, New Mexico 87501. Bids received after 2:00 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the foregoing address before 2:00 p.m.

Coal Offered: The coal resource to be offered is limited to those reserves recoverable by surface mining methods from the Sundance coal bed, "A" seam and "B" seam, in the following described tract located approximately five miles southeast of Gallup, McKinley County, New Mexico:

New Mexico Principal Meridian, New Mexico

T. 14 N., R. 17 W.
Sec. 8: E½
Containing 230.00 Acres.

The estimated total reserves recoverable by surface mining methods are 1.436 million tons, assuming an 80 foot mining depth. The coal is high volatile C bituminous coal and has an average heating value of approximately 11,200 BTU per pound and an average sulfur content of approximtely 0.9 percent and 12.0 percent ash (as received). The Sundance coal bed averages about 6.0 feet in thickness. The "A" seam overlies the Sundance coal seam and the "B" seam underlies the Sundance coal seam. The "A" and "B" seams are lenticular and not included in the above reserves.

Qualified Surface Owners: The surface of the NE¼ Sec. 8, T. 14 N., R. 17 W., NMPM, to be offered in this coal lease sale is owned by qualified surface owners as defined in Section 714 of the Surface Mining Control and Reclamation Act (SMCRA) of 1977 and 43 CFR 3400.0-5(pp). The surface owners have consented to surface mining of this land through a transferable lease agreement. The lease agreement is held by the applicant for this competitive coal lease sale, as grantee. The agreement satisfies the surface owner consent requirements of SMCRA and 43 CFR 3427. The terms and conditions of the lease agreement are attached to the Detailed Statement of the lease sale.

Rental and Royalty: A lease issued as a result of this offering will provide for

payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by surface mining methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Room 3031, at the address given above. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, are also available for public inspection in the aforementioned Room 3031.

Van W. Manning,

Acting State Director.

[FR Doc. 80-32435 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with 43 CFR 1780 that a meeting of the Medford District Advisory Council will be held on November 14, 1980.

The meeting will begin at 8:00 A.M. and end at 12:00 noon in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon.

The agenda for this meeting will include:

1. A continued orientation to Medford District programs and issues.

2. Arrangements for the next meeting.

The meeting is open to the public and new media. Interested persons may make oral statements to the Council between 11:00 and 11:30 A.M. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97501, telephone 503-776-4187, by close of business November 7, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained at the District Office and be available for public inspection and reproduction at the cost of duplication

Dated: October 3, 1980.

George Francis,

District Manager.

[FR Doc. 80-32431 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Oil and Gas Lease Sale, Gulf of Mexico—Sale No. 62; Correction

November 18, 1980.

On October 16, 1980, the Notice of Sale for OCS Lease Sale No. 62 was published in the **Federal Register**. This correction notice amends that document with the following changes:

1. In paragraph 2, the fourth sentence which begins with "Bids may be . . . ." should read, "Bids may not be . . . ."

2. In paragraph 12, the OCS Official Protraction Diagram, Corpus Christi, NG 14-3 which indicates, "(Approved June 5, 1974; . . . .)" should read, "(Approved June 15, 1974; . . . .)"

3. Lease Stipulation No. 3(b) describes the fourth affected aliquot as, "NE1/2SW1/4NW1/4"; this should read, "NE1/4SW1/4NW1/4."

Dated: October 15, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 80-32465 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

Spokane District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR 1780 that a meeting of the Spokane District Advisory Council will be held on Wednesday, November 12, 1980.

The meeting will begin at 9:00 a.m. in Room 485, U.S. Courhouse, 920 Riverside, Spokane, Washington.

The agenda for the meeting is:

1. A discussion of the functions of the Council.

2. An election of the chairperson and vice chairperson.

3. An orientation to and discussion of Spokane District programs and current issues.

4. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the Council between 2 and 3 p.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Room 551, U.S. Courthouse, Spokane, WA 99201, telephone (509) 456-2570, by close of business, 4:30 p.m., November 5, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A report of the Council meeting will be maintained at the District Office and be made available for public inspection and reproduction at the cost of duplication.

Roger W. Burwell,

District Manager.

October 6, 1980.

[FR Doc. 80-32438 Filed 10-16-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action signficantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: October 9, 1980.

By the Commission, Review Board Number 5. Members Krock, Taylor, and Williams.

MC-F-14337F, TAYLOR TRUCK LINE, INC.—POOLING—C-B-C TRANSPORTS Application filed February 28, 1980, of Taylor Truck Line, Inc. (Taylor) of Charleston, MS, and C-B-C Transports, Inc., of Greenville, MS (C-B-C), both common carriers by motor vehicles subject to Title IV, U.S. Code for authority under 49 U.S.C. § 11342 approving and authorizing the pooling services in the transportation of property in interstate or foreign commerce, at Greenville, MS, for delivery by C-B-C Transports of Taylor Truck Line's traffic at Greenville and Leland, MS, and points in Mississippi south of U.S. Hwy 82 and transportation by Taylor of C-B-C's traffic at points on and within five miles of U.S. Hwy 82 east of Leland, MS, and points in Mississippi north of U.S. Hwy 82. Application approved September 26, 1980. No pooling services between Taylor and C-B-C shall be instituted until 30 days after this notice has been published in the Federal Register and no objections have been received. If any objections are received as to the arrangement between Taylor and C-B-C, that pooling arrangement will be given further consideration in this proceeding and no services may be instituted under that arrangement unless approved by further order of the Commission in this proceeding. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38071.

Note.—This notice replaces an earlier erroneous notice published March 27, 1980 at 45 FR 61 at page 20251.

MC-F-14454, PERSONALIZED AGENT SERVICE, INC.—POOLING—CAPE AIR FREIGHT, INC. Application filed February 21, 1980, of Personalized Agent Service, Inc. (PAS) of Atlanta, GA, and Cape Air Freight, Inc of Shawnee Mission, KS (Cape Air) both common carriers by motor vehicles subject to Title 49, Subtitle IV, U.S. Code, for authority under 49 U.S.C. § 11342 approving and authorizing the pooling of services in the transportation of property in interstate or foreign commerce having an immediately prior or subsequent movement by air between Atlanta, GA Airport on the one hand, and, on the other, points in AL, GA and TN. Application approved September 25, 1980 of PAS and Cape Air. No pooling services shall be instituted until 30 days after this notice has been published in the Federal Register and no objections have been received. If any objections are received as to the arrangement between PAS and Cape Air, that pooling arragement will be given further consideration in this proceeding and no services may be instituted under that arrangement unless approved by further order of the Commission in this proceeding. Representative: Kim G. Myer, P.O. Box 872, Atlanta, GA 30301.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32332 Filed 10-16-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29436 (Sub-1F)]

Cedar Rapids & Iowa City Railway Co.—Purchase (Portion)—Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the application of Cedar Rapids and Iowa City Railway Company to acquire and operate 23.1 miles of line owned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Richard B. Ogilvie, Trustee). The line runs from Cedar Rapids to Middle Amana, IA. This Commission is also setting a schedule for the proceeding, so that a final decision on the application could be issued within the 90-day deadline.

DATES: (1) Verified statements supporting or opposing the application are due November 3, 1980; (2) verified statements from the United States Secretary of Transportation and the Attorney General of the United States are due November 10, 1980; (3) verified replies are due November 17, 1980.

ADDRESS: An original and 10 copies of all statements should refer to Finance Docket No. 29436 (Sub-No. 1F) and should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION: The Cedar Rapids and Iowa City Railway Company (CIC) filed an application on October 7, 1980, under Section 5 of the Milwaukee Railroad Restructuring Act, 49 U.S.C. 904, for authority to acquire a line of railroad from the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Richard B. Ogilvie, Trustee) (MILW). The line is approximately 23.1 miles in length and runs from Cedar Rapids, IA, to Middle Amana, IA. The application will be handled under the

special procedures in *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980), 45 FR 6107 (January 25, 1980). In a decision in Finance Docket No. 29436, *Cedar Rapids and Iowa City Railway Company-Petition*, (not printed) decided August 29, 1980, the Commission determined that this proposed acquisition is a minor transaction.

The application has been reviewed and found to comply with the information requirements of our regulations.

The MILW's Reorganization Court, in Order No. 382, issued July 29, 1980, directed the Commission to act upon the CIC's application within 90 days from its filing. To meet this deadline, we have established the expedited schedule set forth above to apply to this proceeding.

Requests for copies of CIC's application should be addressed to: Thomas J. Pitner, P.O. Box 351, Cedar Rapids, IA 52406.

It is ordered:

(1) The application in Finance Docket No. 29436 (Sub-No. 1) is accepted for consideration.

(2) The parties shall comply with all provisions stated above.

(3) This decision shall be effective on Oct. 16, 1980.

Dated: October 10, 1980.

By the Commission, Michael Erenberg, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32330 Filed 10-16-80; 8:45 am]

BILLING CODE 7035-1-M

[No. WC-34]

Delta Queen Steamboat Co.—Petition for Exemptive Relief; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of petition seeking exemption.

SUMMARY: Delta Queen Steamboat Company seeks an exemption under 49 U.S.C. 11108 from the provisions of 49 U.S.C. 11904(c)(1) and 11905, in order to offer free or reduced-rate transportation to travel agents and tour guides.

DATES: Comments are due November 17, 1980.

ADDRESS: An original and 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275-7693 or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: Petitioner, Delta Queen Steamboat Company, is a regulated common carrier of passengers by water. It provides domestic vacation cruises on inland rivers, mainly on the Mississippi River, using a paddle-wheel steamer.

Despite its relatively limited operations vis-a-vis other cruise lines, Delta Queen believes it is in direct competition with cruise lines operating between U.S. and foreign ports. It argues that vacation cruises tend to compete for the same passenger market, regardless of whether they have domestic or foreign destinations. Passengers appear to be most interested in the duration of the cruise and the amenities of shipboard life. These features tend to be similar on all cruises. In advertising brochures published to attract customers, the emphasis is on shipboard life, instead of where a particular cruise is destined.

As the foreign lines are not regulated by this Commission, they can and do offer many inducements to promote their cruises. The practice of providing free or reduced-priced transportation for travel agents and tour guides is widespread. Familiarization trips acquaint this largest group of potential sellers of the transportation with the cruise. Agents' recommendations to potential customers can be critical in generating enough patronage to make a cruise operation profitable. Barter arrangements are also used, and are especially attractive to petitioner, which has a limited advertising budget. Thus, for example, free advertising can be traded for free or reduced-passage.

Petitioner arguably cannot participate in these practices, as 49 U.S.C. 11904(c)(1) and 11905 prohibit free transportation and require collection of the published rate. Therefore, it seeks an exemption from these regulations, pursuant to 49 U.S.C. 11108. It believes that it could then better compete with foreign carriers for cruise bookings.

Section 11108 authorizes exemption when a domestic water carrier shows: (1) it is in competition with a water carrier operating to or from a port in a foreign country; (2) the competing foreign carrier unreasonably discriminates against the domestic carrier by a rate, rule, or practice; and (3) the relief sought is in the public interest and is consistent with the National Transportation Policy.

We believe that factors (2) and (3) are proven. The availability of free or reduced transportation, barter arrangements, and other such arrangements for foreign cruises places petitioner at a severe disadvantage in its efforts to promote its cruises. A 1978 survey of travel agents showed that 50 percent of them did not know enough about petitioner's cruises to recommend them.

We also see certain public interest in the continued operation of petitioner's line because of its historic value. More importantly, public policy has supported the concept that American enterprise should have the opportunity to compete fairly with foreign products and services. Petitioner's customers would benefit by lower prices resulting from fully-booked cruises. A greater number of bookings can be expected when more travel agents become familiar with petitioner's operations.

As we see it, the major question is whether (1) above must be read narrowly to authorize exemption only where competition exists by virtue of the fact that the companies operate between the same points. While petitioner notes that the principal motivation behind the exemption provision was to assure effective competition between U.S. and Canadian water carriers operating on the Great Lakes, there was a general concern regarding market, as well as point-to-point competition. We seek comments on this analysis, especially as to the application of 49 U.S.C. 11108 to these circumstances.

We also seek comments on other alternative forms of relief, should the exemption not be available. For example, should the Commission make a general finding that reduced rates do not violate 49 CFR 10741? May the Commission take action similar to that taken by the CAB in *Free and Reduced-Rate Transportation Case*, 14 C.A.B. 481 (1951)? May we authorize barter arrangements here as has the CAB (45 CFR 46797)? We note that the Act does not prohibit reduced rates for promotional purposes and that these rates could be found nondiscriminatory based on the different circumstances involved. However, the existence of various regulatory requirements would inhibit such proposals.

Comments should also include discussion of what, if any, significant effect granting the proposed exemption would have on either the quality of the human environment or conservation of energy resources.

Decided: October 3, 1980.

(49 U.S.C. 10101, 10541, 10701, 11108, 5 U.S.C. 553)

By the Commission, Division 2, Commissioners Trantum, Gresham, and Gaskins.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32331 Filed 10-16-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP3-041]

Decision-Notice

Decided: October 8, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Member Chandler, Eaton, and Liberman, participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 2934 (Sub-77F), filed September 26, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: James L. Beattey, 300 E. Fall Creek Parkway, Suite 403, Indianapolis, IN 46205. Transporting *stereos* and *stereo component parts,* between Santa Claus, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 14314 (Sub-43F), filed September 30, 1980. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway & Vine Sts., Lima, OH 45802. Representative: R. L. Anderhalt, Jr. (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Fort Wayne, IN, and Lansing, MI, over U.S. Hwy 27; (2) Between Detroit and Bay City, MI, over Interstate Hwy 75; (3) Between Detroit and Muskegon, MI, over Interstate Hwy 96; (4) between Port Huron and St. Joseph, MI, over Interstate Hwy 94; in connection with routes (1) through (4) serving all intermediate points and points in Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Montcalm, Muskegon, Oakland, Ottawa, Saginaw, Saint Clair, Saint Joseph, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, and Wayne Counties, MI, as off-route points.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 43685 (Sub-25F), filed September 25, 1980. Applicant: MERCER TRUCKING COMPANY, INC., P.O. Box 11585, Spokane, WA 99211. Representative: Marshall Hanning (same address as applicant). Transporting (1) *lumber, forest products,* and *building materials,* between points in Chelan, Douglas, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens Counties, WA, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID, and Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties, MI, on the one hand, and, on the other, points in CO, ND, SD, UT, and WY; and (2) *materials for recycling,* between points in CO, ID, MT, ND, OR, SD, VT, WA, and WY.

MC 94265 (Sub-366F), filed September 22, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *meats, meat products and meat by-products,* and *articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in AL, FL, GA, MS, NC, SC, TN, CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC.

MC 102285 (Sub-7F), filed September 25, 1980. Applicant: MIAMI TRANSFER CO., INC., 10340 N.W. 37th Avenue, Miami, FL 33147. Representative: Norman J. Bolinger, 3100 University Blvd. S, Suite 225, Jacksonville, FL 32216. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Hillsborough, Dade, Broward, and Palm Beach Counties, FL, on the one hand, and, on the other, points in Charlotte, Lee, and Collier Counties, FL.

MC 107934 (Sub-41F), filed September 26, 1980. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *water heaters, boilers, glass lined tanks, and solar panels,* from Kankakee, IL, to points in DE, MD, NC, SC, TN, VA, WV, and DC.

MC 107934 (Sub-42F), filed September 26, 1980. Applicant: BYRD MOTOR LINE, INCORPORATED, P.O. Box 828, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *newsprint,* between points in Davidson County, NC, on the one hand, and, on the other, points in AL, GA, LA, TN, and SC.

MC 125335 (Sub-108F), filed September 26, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405.

Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs*, between points in Shelby County, TN, on the one hand, and, on the other, points in the US (except AK and HI).

MC 128205 (Sub-97F), filed September 26, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *lime*, in bulk, from points in OH to points in Cook County, IL.

MC 131045F, filed September 25, 1980. Applicant: MARYLAND UNLIMITED TOURS INC., 9110 Perryvale Rd., Baltimore, MD 21236. Representative: Peter C. Sugatt (same address as applicant). *Broker*, at Baltimore, MD, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in MD, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 134404 (Sub-66F), filed September 29, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by food business houses (except commodities in bulk), between points in the U.S., under continuing contract(s) with Nabisco, Inc., of East Hanover, NJ.

MC 135154 (Sub-8F), filed September 25, 1980. Applicant: BADGER LINES INC., 3109 West Lisbon Avenue, Milwaukee, WI 53208. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Transporting *malt beverages*, from St. Louis, MO, and Columbus, OH, to Janesville and Madison, WI.

MC 135924 (Sub-25F), filed September 26, 1980. Applicant: SIMONS TRUCKING CO., INC., 3851 River Road, Grand Rapids, MN 55744. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. Transporting (1) *building materials, equipment, and supplies*, and (2) *paper mill and board mill materials, equipment, and supplies*, from points in the U.S. (except AK and HI) to points in Itasca County, MN.

MC 138635 (Sub-119F), filed September 25, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting *automobile parts* and *materials, supplies, and equipment* used in the manufacture of motor vehicles, between points in the U.S.

MC 139424 (Sub-6F), filed September 26, 1980. Applicant: FISHER TRUCKING COMPANY, INC., P.O. Box 345, Hammonton, NJ 08037. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting *petroleum and petroleum products*, between points in NJ, PA, and DE.

MC 140665 (Sub-114F), filed September 26, 1980. Applicant: PRIME, INC., P.O. Box 4208 G.S., Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *automotive care and maintenance supplies, batteries, flashlights, lamps, electrical equipment, parts for electrical equipment*, and *plastic articles*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities used by Union Carbide Corporation, in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142835 (Sub-10F), filed September 22, 1980. Applicant: CARSON MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from the facilities of Nabisco, Inc., at (1) Atlanta, GA, to points in AL, CT, FL, LA, ME, MD, MA, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT and VA, (2) Houston, TX, to points in CT, FL, LA, ME, MD, MA, NJ, NY, OH, PA, RI and VA, (3) Fairlawn, NJ, and Philadelphia, PA, to points in FL, ME, TX and VT, (4) Pittsburgh, PA, to points in FL and TX, and (5) Richmond, VA, to points in TX, MD, and LA.

MC 142935 (Sub-19F), filed September 25, 1980. Applicant: PLASTIC EXPRESS, a corporation, 2301 East Francis Street, Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92663. Transporting *plastic articles*, from points in TX, to points in OR, WA, and CA.

MC 143505 (Sub-3F), filed September 29, 1980. Applicant: KOMMER BULK FEED SERVICES, INC., 171 Stafford Rd., Palmyra, NY 14522. Representative: Charles A. Schiano, 500 Wilder Bldg., One East Main St., Rochester, NY 14614. Transporting *feed, feed ingredients and feed grade phosphate*, between points in NY, PA, OH, CT, MD, VA, DE, NJ, MA, ME, and VT.

MC 144595 (Sub-4F), filed September 26, 1980. Applicant: ROBERT D. ANTHOLZ, d.b.a. PAWNEE GRAIN COMPANY, Route 3, Box 42, 1647 G St., Pawnee City, NE 68420. Representative Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Transporting *lumber, lumber mill products, and wood products*, between points in the U.S., under continuing contract(s) with Commercial Lumber Sales, of Little Rock, AR.

MC 144984 (Sub-3F), filed September 26, 1980. Applicant: LAHOMA TRANSPORT, INC., P.O. Box 189, Omaha, NE 68101. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Transporting *cement*, from the facilities of Oklahoma Cement Company, division of Lone Star Industries, at or near (1) Pryor, OK to points in AR, KS and MO, and (2) Woodward and Oklahoma City, OK, to points in KS.

MC 145664 (Sub-21F), filed September 26, 1980. Applicant: STALBERGER, INC., 223 South 50th Ave., West, Duluth, MN 55807. Representative: Norman A. Cooper, 145 West Wisconsin Ave., Neenah, WI 54956. Transporting (1) *food additives*, between points in Cook County, IL, Hennepin and St. Louis Counties, MN, Hall County, NE, and Hudson County, NJ, on the one hand, and, on the other, points in the U.S. and (2) *foodstuffs*, between points in Cook County, IL, on the one hand, and, on the other, those points in the U.S. in an east of ND, SD, NE, KS, OK, and TX.

MC 145955 (Sub-17F), filed September 29, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 58107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *paper products*, between Omaha, NE, on the one hand, and, on the other, points in IL, IN, MI, MO, and WI.

MC 146964 (Sub-13F), filed September 25, 1980. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representative: Michael Valencik (same address as applicant). Transporting (1) *paper and paper products, lumber, forest products, janitorial equipment and supplies, packaging materials and equipment, and printing equipment and supplies*, and (2) *materials, equipment, and supplies* used in the manufacture, conversion, or distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Hammermill Paper Company.

MC 148314 (Sub-4F), filed September 25, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East

114th Street, Chicago, IL 60628. Representative: Joel H. Steiner, 39 S. LaSalle, Suite 600, Chicago, IL 60603. Transporting (1) *carbon, carbon wood products, charcoal, charcoal briquettes, hickory chips, lighter fluid, grills, grill accessories,* and (2) *materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities in (1), (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Husky Industries, Inc.

MC 148894 (Sub-4F), filed September 26, 1980. Applicant: DISPATCH DISTRIBUTION SERVICES, INC., 1285 William Street, Buffalo, NY 14206. Representative: Roy D. Pinsky, Suite 1020, State Tower Building, Syracuse, NY 13202. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Thruway Terminals, Inc., of Buffalo, N.Y.

MC 149564 (Sub-1F), filed September 18, 1980. Applicant: BOB HUBBARD HORSE TRANSPORTATION, INC., 20825 Currier Rd., P.O. Box 277, Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting (1) *race horses and show horses,* (2) *personal effects* of horse attendants, (3) *supplies and equipment* used in the care, transportation, racing, and exhibition of race horses and show horses, between points in the U.S.

MC 151205 (Sub-1F), filed September 23, 1980. Applicant: ROY RIPLEY AND R. F. CAMPBELL, a partnership, d.b.a., R&C ENTERPRISES, P.O. Box 2492, Johnson City, TN 37601. Representative: M.C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in and east of Claiborne, Grainger, Cocke, and Jefferson Counties, those in VA in and west of Bland, Wythe, and Grayson Counties, and those in NC in and north of Madison, Buncombe, McDowell, Burke, Caldwell, Watauga, and Ashe Counties.

MC 151285 (Sub-1F), filed September 26, 1980. Applicant: DON CRYDER, d.b.a. CRYDER TRUCK LINE, Route 3, Ames, IA 50010. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *meats, meat products and meat byproducts,* and *articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Tama Meat Packing Corporation, at or near Tama, IA, to points in CA and CO.

MC 151285 (Sub-2F), filed September 26, 1980. Applicant: DON CRYDER, d.b.a. CRYDER TRUCK LINE, Route 3, Ames, IA 50010. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *animal and poultry feed supplements,* (except in bulk), (1) from Ames, IA to points in AR, CA, IL, CO, IN, KS, MN, MO, NE, OH, PA, and TX; and (2) between the facilities of Hoffmann La Roche, Inc., at or near (a) Ames, IA, (b) Fresno, CA, (c) Fort Worth, TX, and (d) Salisbury, MD.

MC 151504 (Sub-1F), filed September 29, 1980. Applicant: PHELCO, INC., 11842 Missouri Bottom Rd., St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Transporting (1) *boxes, pulpboard, and paper products,* (2) *materials* used in the manufacture of paper products, between points in the U.S., under continuing contract(s) with Alton Box Board Company, of Alton, IL.

MC 150425 (Sub-1F), filed September 29, 1980. Applicant: TRANS-CONTINENTAL EXPRESS, INC., P.O. Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *zine dust dross and skimmings,* between the facilities of Southern Zinc Company, in Fulton County, GA, on the one hand, and, on the other, points in AL, MS, LA, TX, OK, AR, MO, TN, OH, NC, SC, VA, PA, NJ, FL, and RI.

MC 150444 (Sub-2F), filed September 25, 1980. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Borden Foods, Division of Borden, Inc., of Columbus, OH.

MC 150724 (Sub-1F), filed September 25, 1980. Applicant: DONALD SANTIS! TRUCKING COMPANY, a corporation, 1024 North Main St., Niles, OH 44446. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Moore County, TX, to points in OH, and those points in OH, and those in PA and WV on the west of U.S. Hwy 219.

MC 151994 (Sub-1F), filed September 29, 1980. Applicant: P. R. T., INC., 135 Wyandot Ave., Marion, OH 43302. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. Transporting (1) *foodstuffs,* (except in bulk, tank vehicles), and (2) *materials, equipment, and supplies* used in the production, manufacture, and distribution of foodstuffs, between points in Marion and Wyandot Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152014 (Sub-1F), filed September 25, 1980. Applicant: MARSHALL DILLION TRANSPORT, INC., P.O. Box 18590, Tucson, AZ 85731. Representative: Ron Bishop (same address and applicant). Transporting (1) *lighting fixtures,* (2) *accessories and parts,* for lighting fixtures, and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Americus, GA, and Eufaula, AL, on the one hand, and, on the other, points in TX, NM, AZ, CA, UT, OR, WA, WY, MT, CO, MO, OK, KS, IL, IN, OH, and ID.

MC 152015 (Sub-1F), filed September 25, 1980. Applicant: BLACK BEAUTY TRUCKING CO., INC., 414 South Fares St., Evansville, IN 47701. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *coal,* between points in the U.S., under continuing contract(s) with Black Beauty Coal Co., of Evansville, IN.

[FR Doc. 80-32328 Filed 10-16-80; 8:45 am]
BILLING CODE 7035-01-M

[ICC Order No. 71 Under S.O. No. 1344]

Rerouting of Traffic

To: Fort Worth and Denver Railway Company.

In the opinion of Robert S. Turkington, Agent, the Fort worth and Denver Railway Company, is unable to transport promptly all traffic offered for movement between Wichita Falls and Abilene, Texas, because of flooding.

It is ordered,

(a) *Rerouting traffic.* The Fort Worth and Denver Railway Company, being unable to transport promptly all traffic offered for movement between Wichita Falls and Abilene, Texas, because of flooding is authorized to divert or

reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., September 30, 1980.

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 15, 1980, unless otherwise modified, amended or vacated.

This order 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 under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 30, 1980.

Interstate Commerce Commission.

Robert S. Turkington

Agent.

[FR Doc. 80-32333 Filed 10-16-80; 8:45 am]

BILLING CODE 7035-01-M

[ICC Order No. 70 Under S.O. No. 1344]

Rerouting of Traffic

To: Roscoe, Snyder and Pacific Railway Company.

In the opinion of Robert S. Turkington, Agent, Roscoe, Snyder and Pacific Railway Company is unable to transport promptly all traffic offered for movement over its line between Roscoe, Texas, and Snyder, Texas, due to flood conditions.

It is ordered,

(a) *Routing traffic.* The Roscoe, Snyder and Pacific Railway Company, being unable to transport promptly all traffic offered for movement over its lines between Roscoe, Texas, and Snyder, Texas, because of flood conditions, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12 noon, September 29, 1980.

(g) *Expiration date.* This order shall expire at 12 noon, September 30, 1980, unless otherwise modified, amended or vacated.

This order 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 under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Drector, Office of the Federal Register.

Issued at Washington, D.C., September 29, 1980.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 80-32334 Filed 10-16-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 344]

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 80-30341, appearing at page 65072, in the issue of Wednesday, October 1, 1980, make the following correction:

On page 65073, second column, last paragraph, the docket number for the Pittsburgh-Fayette Express, Inc. application, in the first line of that paragraph now reading "MC 4242 (Sub-71F)" should read "MC 4242 (Sub-7F)".

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 27, Amendment. No. 2]

Authority Delegation; Director, Office of Personnel Management

Pursuant to the authority delegated to me by Executive Order No. 12163 of September 29, 1979 (44 FR 56673) and International Development Cooperation Agency Delegations of Authority. No. 1, dated October 1, 1979 (44 FR 57521) and No. 8, dated August 29, 1980, I hereby

amend Section V, "General Provisions" of Delegation of Authority No. 27, dated October 25, 1978 as follows:

1. Subsection 2 of Section V is deleted in its entirety and replaced by the following:

"2. To the extent consistent with law, regulation or delegation of authority, there is hereby delegated to the Director, Office of Personnel Management, any authority vested in the Administrator (including any authority vested in the Administrator as "head of agency") by ay statute, regulation or delegation of authority, relating to any aspect of personnel authority or administration governing personnel of A.I.D. and other agencies, including authority to prescribe regulations and to establish policy and procedures relating thereto."

2. Subsection 3 of Section V is amended by inserting "regulation or delegation of authority" after "to the extent consistent with law."

This amendment is effective immediately.

Dated: September 25, 1980.

Douglas J. Bennet, Jr.

Administrator.

[FR Doc. 80-32322 Filed 10-16-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Consent Decree in Action To Enforce Compliance With Provisions of the Clean Air Act

In accordance with Departmental policy, 28 CFR § 50.7, 38 Fed. Reg. 19029, notice is hereby given that a modification to a previously proposed consent decree in *United States of America* v. *Republic Steel Corporation* has been lodged with the United States District Court for the Northern District of Ohio, Eastern Division. The original decree was lodged in this case on August 28, 1979, and notice of the proposed decree was published in the Federal Register on September 18, 1979. (44 FR 54131) Numerous comments have been received from members of the public concerning this decree. As originally proposed, the decree imposed on defendant Republic Steel Corporation certain requirements and compliance dates with respect to the operation of its sinter plant and coke batteries in Cleveland, Ohio. The decree also provided for the payment of a $7,500 per day fine if the final compliance dates are not met.

The modification to the proposed decree extends the time within which Republic Steel must complete construction of pollution control equipment (spot cars) at its coke batteries from October 1, 1980, to December 1, 1980, and to achieve compliance with the applicable requirement at coke batteries #6 and 7 from September 1, 1980, to November 1, 1980. The proposed modification would also increase the emission rate at coke battery #1 from .03 lb of filterable particulate to .06 lb. per ton of coke pushed. It would reduce the emission rate at batteries 2, 3, and 4 from .1 lb. of filterable particulate to .06 lb. per ton of coke pushed.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree as modified. Comments previously received will be addressed in response to all comments and need not be resubmitted. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Republic Steel Corporation*, D.J. Ref. 90-5-1-1-1056.

The consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, Eastern Division, Room 400, United States Courthouse, Cleveland, Ohio 44114; at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-32421 Filed 10-16-80; 8:45 am]

BILLING CODE 4410-01-M

[Order No. 912-80]

Placing Assistant Attorneys General in Charge of Their Respective Offices or Divisions

Correction

In FR Doc. 80-31255 appearing on page 66929 in the issued of Wednesday, October 8, 1980, the designation "[Order No. 912-80]" was inadvertently left out of the heading and should be inserted as shown above.

BILLING CODE: 1505-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-102-C]

Mullin Creek Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mullin Creek Coal Company, Inc., P.O. Box 66, Sidney, Kentucky 41564 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The coal seam ranges from 48 to 66 inches in height, with consistent ascending and descending grades creating dips in the coal bed.

2. Installation of canopies on the mine's cutting machine would result in a diminution of safety to the miners affected because:

a. The canopy might strike the roof, destroying roof support; and

b. The canopy allows a near zero percent visibility for the equipment operator.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Date: October 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-32483 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-98-M]

Phelps Dodge Corp.; Petition for Modification of Application of Mandatory Safety Standard

Phelps Dodge Corporation, Tyrone Branch, Tyrone, New Mexico 88065 has filed a petition to modify the application of 30 CFR 55.9-22 (loading, hauling, dumping) to its Tyrone Branch Mine

located in Grant County, New Mexico, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner's dams are constructed with the sand fraction underflow of hydrocyclones which are spaced evenly in a pipeline across the dams; thus the dams are an integral part of the operation. Maintenance of the dams is accomplished by a tailings dam crew.

2. The competency of the dam structures is directly related to the thickness of the sand shell. The depth of this sand shell is sensitive to rain water runoff which, if channeled, can cause deep erosion channels. Thus lateral drainage is needed to prevent the collection of water into larger riverlets that can erode the face of a dam. Therefore lateral drainage is needed to prevent the collection of water into larger riverlets that can erode the face of the sand tailings dams. For reasons such as these, a registered professional engineer is in charge of dam safety, and supervisory personnel assist by maintaining a constant surveillance of the roadways on the dams.

3. The roadways on the tailings dams are used as limited service roadways and are not used for haulage of materials mined. The petitioner states that it does not view these roadways as "elevated roadways," and they were established pursuant to direction from the State Engineer of the State of New Mexico.

4. Construction of a berm along the roadways would cause pooling of floodwaters or rainfall. The water would soak into the dam and reduce the integrity and safety of the dam. It also would create a potentially severe driving hazard. Further, if a pipeline should break, a berm would concentrate and direct the entire flow (to 14,000 gallons per minute) into a single channel causing significant damage to the dam and possibly dam failure.

5. Guard facilities such as posts and cables would interfere with sweeping the roadway debris clear to the crest of the dam and ultimately would result in a trace berm that would, in turn, obstruct the lateral drainage across the roadways.

6. The petitioner requests relief from the application of 30 CFR 57.9–22. The petitioner alleges that the construction of berms or guard facilities will result in a diminution of safety to miners who work at the operation or travel on the tailings dams and roadways located thereon. Relief is necessary, the petitioner states, to avoid the diminution to affected miners. At present, downstream slopes of the tailings dams faces do not present a hazard to miners, the petitioner claims.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 32486 Filed 10–16–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–126–C]

Sewell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Sewell Coal Company, Nettie, West Virginia 26681 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its No. 4 Mine located in Nicholas County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner's permanent pump station is ventilated directly by intake air and only a very small portion of the air passing through the entries where the pump is located would reach any working areas.

2. As an alternate method to complying with the standard, petitioner proposes to ventilate the pump in the manner described in item No. 1 above rather than causing the air ventilating the pump to be directly coursed into the return airway.

3. In addition to this ventilating plan, petitioner will cause the pumps to be protected by automatic heat sensors which will activate a twenty pound dry-type chemical fire suppression device located in the fire-proof structure.

4. In addition, the following safeguard will be employed:

a. The motor will be provided with overload and shortcircuit protection as required by 30 CFR 75.518.

b. A metal door will be provided for the enclosure hinged on the top and a chain or similar linkage connected to a thermal heat link located over motor that would open on not more than 155 degrees Fahrenheit and close door.

c. A switch will be provided and interconnected into the electrical system so as when the metal door closed the power circuit would be de-energized at the beginning of branch circuit.

d. Fire fighting equipment as required by 30 CFR 75.1100–2(e) will be provided.

5. Petitioner states that the proposed method outlined above will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Bolevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Date: October 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–32485 Filed 10–16–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–130–C]

United Castle Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

United Castle Coal Company, Route #1, Box 523, Norton, Virginia 24273, has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The coal seam ranges from 60 to 64 inches in height, with reasonably sound top conditions and muddy bottom conditions.

2. Petitioner states that the use of canopies on the mine's large scoops is prohibited due to the 36 inch clearance of the entrance haulageways.

3. Petitioner also states that the use of canopies on this equipment reduces the equipment operator's visibility, resulting in a diminution of safety.

4. Therefore, petitioner requests a modification of the standard to allow the use of these scoops without canopies in and inby the last open break only after the top has been permanently supported.

5. Petitioner further states that canopies will be installed on these

scoops as soon as the installation of track and rail motors for mantrips in some active working is completed.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 17, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Date: October 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-32484 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-74]

Exemption From Prohibitions for Certain Transactions Involving Guaranty State Bank of St. Paul Profit-Sharing Plan and Trust Located in St. Paul, Minn. (Exemption Application No. D-1401)

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This temporary exemption permits transactions involving the purchase, holding and repurchase (if necessary) of Participation Certificates in certain Small Business Administration (SBA) guaranteed loans between the Guaranty State Bank of Saint Paul Profit-Sharing Plan and Trust (the Plan) and the Guaranty State Bank of Saint Paul (the Employer).

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 8, 1980, notice was published in the **Federal Register** (45 FR 52962) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the purchase, holding and repurchase (if necessary) of Participation Certificates in certain SBA guaranteed loans between the Plan and the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply:

1. from the date of this exemption until five years thereafter to the purchase, holding and repurchase; and

2. subsequent to the expiration date of this exemption to the holding and repurchase (provided such interest was acquired during the period such exemption was in effect) [1] of Participation Certificates in the SBA Loans between the Plan and the Employer, provided the following conditions are met:

A. Only that portion of the SBA Loan that is actually covered by the guaranty shall be the subject of a Participation Certificate acquisition by the Plan.

[1] The Department has traditionally viewed a guarantee to repurchase from the plan by a party in interest as a prohibited transaction under ERISA. Because the terms of the Participation Certificate provide for a guaranteed repurchase on demand during the entire term of such Participation Certificate, the terms of the exemption must necessarily extend to provide relief for the operation of the safeguards incorporated in the conditions. Therefore, the relief provided includes the "holding and repurchase" of the Participation Certificates. Additionally, in order that the Plan not be required to dispose of its holdings in Participation Certificates issued by the Employer during the period such exemption was in effect the Department intends that the language of the exemption also be construed to provide continuing relief for the "holding" after the expiration of the exemption for those Participation Certificates purchased before such date in accordance with the terms of the exemption.

B. The Participation Certificates are sold to the Plan with no sales commission and the Employer agrees to service the entire SBA Loan at no fee to the Plan.

C. The purchase price of the Participation Certificate would be determined by comparing the market interest rate at the time the participation interest would be purchased with the interest rates of the SBA Loan; however, in no event would the purchase price to the Plan be less favorable than a similar transaction would be with an unrelated third party.

D. Any Participation Certificate acquisition by the Plan shall include a written repurchase provision by the Employer at the demand of the Plan, upon fifteen (15) days written notice, such requirement for repurchase to be at the absolute discretion of the Plan. Should the repurchase provision be exercised, the pruchase price shall be the unpaid principal balance, provided this amount is not less than fair market value at the time of sale, plus any accrued interest payments.

E. In the event of a default by the borrower on any payment due under the terms of the SBA Loan, the Employer will be called upon to honor his obligation under condition D of this exemption. A loan shall be considered to be in default for purposes of this exemption when it would be considered in default under the SBA provisions governing a guaranty for such loans.

F. The Employer shall continue to hold at least a fifty (50) percent interest in that portion of the SBA Loan not transferred to the Plan by a Participation Certificate.

G. The acquisition of a Participation certificate from the Employer involving an SBA Loan shall not cause the Plan to hold:

(1) more than fifty (50) percent of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in such participation interests; and

(2) more than ten (10) percent of Plan assets (as defined above) in any single transaction or involve the same borrower.

H. The Plan shall maintain or cause to be maintained for a period of six years from the date of each transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

(1) a prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the trustees or other Plan fiduciaries, such records are lost or destroyed prior to the end or such six year period; and

(2) the Employer shall not be subject to civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph I below.

I. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph H are unconditionally available at their customary location for examination during normal business hours by:

(1) the Internal Revenue Service;

(2) the Department of Labor;

(3) the Plan participants and beneficiaries;

(4) any employer of Plan participants;

(5) any employee organization any of whose members are covered by the Plan; or

(6) any duly authorized employee or representative of a person described in subparagraphs (1) through (5) of this paragraph.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of October 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32385 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

Proposed Exemption for a Certain Transaction Involving the Barnett Bank of Westchester, Superseded Profit-Sharing Plan; Located in Jacksonville, Fla. (Application No. D-1810)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of a certain Government National Mortgage Association Single Family Pool by the Barnett Bank of Westchester Superseded Profit Sharing Plan (the Plan) to the Barnett Banks of Florida, Inc. (the Employer). The proposed exemption, if granted, would affect the Employer and participants and beneficiaries of the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department on or before December 1, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1810. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with seven participants. After the purchase of the Westchester Bank by the Employer, the Plan was curtailed

and the participants became 100 percent vested in their account balances. The Plan assets were then transferred to the retirement plan for employees of the Employer (the Pension Plan), and set up in a separate subsidiary account on December 31, 1975. Assets of the Plan have remained segregated from the Pension Plan with earnings allocated to the participant's accounts on a yearly basis. Payments have been made to participants of their total account balance upon their termination, retirement, death or total disability.

2. As of February 15, 1980, Plan assets in the segregated account consisted of cash totaling $3,171.53 and an 8 percent Government National Mortgage Association Single Family Mortgage Pool dated February 15, 1972 due January 15, 2002 (Mortgage Pool).

3. The Plan trustee has received a request for payment of a participant's account balance which is in excess of the cash balance of the Plan. Since the Plan's cash is insufficient to make the distribution, the Plan is required to sell the Mortgage Pool.

4. As of June 2, 1980, the Mortgage Pool had a carrying value (defined as the original purchase price less all previous principal payments received) of $32,700.48. The trustee has always used carrying value to value the Mortgage Pool for purposes of allocating Plan assets to participants' accounts. The Employer has offered to purchase the Mortgage Pool for its carrying value in order to avoid reducing the value of participants' accounts. The carrying value is in excess of the fair market value of the Mortgage Pool. A letter submitted by Merrill Lynch Pierce Fenner & Smith states that as of May 28, 1980, the Mortgage Pool was quoted at 84 16/32 per the *Wall Street Journal*. The Mortgage Pool would thus have had a fair market value at that date of $24,905.25 based upon a par value of $29,450.48. Par value is the original face value of the Mortgage Pool less principal payments received.

5. The applicant has represented that any excess in price over fair market value paid to the Plan will be treated as an employer contribution, and this contribution will not cause the Plan to fail to qualify as a result of section 415 of the Code.

6. In summary, the applicant represents that the proposed sale of the Mortgage Pool will satisfy the statutory criteria contained in section 408(a) of the Act as follows: (1) the sale will be a one-time transaction for cash; (2) liquidity is necessary to pay distributions to vested participants who are eligible to receive distributions; (3) the sale will be at a price higher than the fair market value of the Mortgage Pool as reported in the *Wall Street Journal;* and (4) the trustee has determined that the transaction is in the interests of Plan participants and beneficiaries and protective of their rights.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within 10 days of the publication of this notice in the **Federal Register**, the applicant will provide notification to all remaining participants in the Plan, to the President of the Employer, and to the Administrators of the Pension Plan. Such notification will be made by certified mail, return receipt requested, and will inform all interested parties of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested parties are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the Mortgage Pool by the Plan to the Employer, provided the purchase price shall be the greater of the carrying value (defined as the original purchase price less all principal payments previously received) or the fair market value of the Mortgage Pool at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately described all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32387 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-76]

Exemption From the Prohibitions for Certain Transactions Involving the Cement Masons Pension Trust Fund for Northern California Located in San Francisco, Calif.; (Exemption Application No. D-1424)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the issuance by the Cement Masons Pension Trust Fund for Northern California (the Plan) of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reasons of servicing mortgages which they previously have sold to the Plan.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 1, 1980, notice was published in the **Federal Register** (45 FR 51310) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the transactions described in an application filed by McMorgan & Company, the investment manager of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in notice of pendency. No public comments were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations: (a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to issuance by the Plan of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan. The foregoing exemption will be appicable subject to the conditions as set forth in the notice of pendency.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32386 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-73]

Exemption From the Prohibitions for Certain Transactions Involving Food Store Employees Union and Employers Pension Plan and Food Store Employees Union and Employers Health and Welfare Plan, Located in Charleston, W. Va. (Exemption Application No. L-1737 and L-1738)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the leasing of office space by Food Store Employees Union Local 347 (the Union) to Food Store Employees Union and Employers Pension Plan and Food Store Employees Union and Employers Health and Welfare Plans (collectively, the Plans).

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 8, 1980, notice was published in the **Federal Register** (45 FR 52958) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the provisions set out in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(a), 406(b)(1) and 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(b)(2) of the Act shall not apply to the lease of office space between the Union and the Plans described in the notice of pendency. The effective date of the exemption shall be August 1, 1979.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction that is the subject of this exemption.

Signed at Washington, D.C., this 9th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32391 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-72]

Exemption From the Prohibitions for Certain Transactions Involving Martin Gibbs, M.D., P.A., Pension Plan (Exemption Application No. D-1556)

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the cash sale of unimproved waterfront real property by the Martin Gibbs, M.D. P.A. Pension Plan (the Plan) to Dr. Martin Gibbs, a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 15, 1980, notice was published in the **Federal Register** (45 FR 47555) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4976(c)(1)(A) through (E) of the code, for the transaction described in an application filed by the Martin Gibbs, M.D., P.A. (the Employer). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the notification requirements as set forth in the notice of pendency. One comment was received by the Department and was subsequently withdrawn. Therefore, the Department has decided to grant the exemption as proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43

FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan of the unimproved waterfront real property to Dr. Martin Gibbs for the greater of the fair market value on the date of sale or $48,500.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 9th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32390 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–75]

Exemption From the Prohibitions for Certain Transactions Involving Guaranty State Bank of St. Paul Profit-Sharing Plan and Trust Located in St. Paul, Minn. (Exemption Application No. D–1402)

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This temporary exemption permits transactions involving the purchase, holding and repurchase (if necessary) of Participation Certificates in certain real estate mortgage loans between the Guaranty State Bank of Saint Paul Profit-Sharing Plan and Trust (the Plan) and the Guaranty State Bank of Saint Paul (the Employer).

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 1, 1980, notice was published in the **Federal Register** (45 FR 51312) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the purchase, holding and repurchase (if necessary) of Participation Certificates in certain real estate mortgage loans between the Plan and the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section

406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply:

(1) From the date of this exemption until five years thereafter to the purchase, holding and repurchase; and

(2) Subsequent to the expiration date of this exemption to the holding and repurchase (provided such interest was acquired during the period such exemption was in effect) [1]

of Participation Certificates in the Real Estate Loans secured by first mortgages between the Plan and the Employer, provided the following conditions are met:

A. No sales commission will be charged to the Plan in connection with the Participation Certificate acquisition.

B. The purchase price of the Participation Certificate will be determined by comparing the market interest rate at the time the participation interest would be purchased with the interest rate of the Real Estate Loan; however, in no event would the purchase price to the Plan be less favorable than a similar transaction with an unrelated third party.

C. The Employer will continue to hold at least a fifty (50) percent interest in that portion of the Real Estate Loan not transferred to the Plan by a Participation Certificate and service the entire loan at no fee to the Plan.

D. Only Real Estate Loans secured by first real estate mortgages which have been properly recorded and insured in the amount of such loan and having a loan-to-value ratio not greater than seventy-five (75) percent shall be the subject of a Participation Certificate acquisition by the Plan.

E. Any Participation Certificate acquisition by the Plan shall include a written repurchase provision by the Employer at the demand of the Plan, upon fifteen (15) days written notice, such requirement for repurchase to be at the absolute descretion of the Plan. Should the repurchase provision be exercised, the purchase price shall be the unpaid principal balance, provided this amount is not less than fair market value at the time of sale, plus any accrued interest payments.

F. In the event of a default by the borrower on any payment due under the terms of the security agreement governing the loan transaction (a required document pursuant to local banking law), the Employer will be called upon to honor his obligation under condition E of this exemption. A Real Estate Loan shall be considered to be in default for purposes of this exemption when it would be considered in default under the terms of the security agreement or any other loan documentation governing the Employer originated loan in which the Plan has a participation interest.

G. The acquisition of a Participation Certificate from the Employer involving the Real Estate Loans shall not cause the Plan to hold:

1. More than thirty-five (35) percent of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in such participation interests; and

2. More than ten (10) percent of Plan assets (as defined above) in participation interests of any one real estate secured loan or individual borrower.

H. A plan which relies upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

2. Such employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph I below.

I. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph H above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;

2. The Department of Labor;

3. The Plan participants and beneficiaries;

4. Any employer of Plan participants;

5. Any employee organization any of whose members are covered by the Plan; or

6. Any duly authorized employee or representative of a person described in subparagraphs (1) through (5) of this paragraph.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Laobr-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32384 Filed 10-16-80; 8:45 am]

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[1] The Department has traditionally viewed a guarantee to repurchase from the plan by a party in interest as a prohibited transaction under ERISA. Because the terms of the Participation Certificate provide for a guaranteed repurchase on demand during the entire term of such Participation Certificate, the terms of the exemption must necessarily extend to provide relief for the operation of the safeguards incorporated in the conditions. Therefore the relief provided includes the "holding and repurchase" of the Participation Certificates. Additionally, in order that the Plan not be required to dispose of its holdings in Participation Certificates issued by the Employer during the period such exemption was in effect the Department intends that the language of the exemption also be construed to provide continuing relief for the "holding" after the expiration of the exemption for those Participation Certificates purchased before such date in accordance with the terms of the exemption.

Proposed Exemption for Certain Transactions Involving the Pacific Scientific Co.'s Employee Retirement Plan Located in Anaheim, Calif.; (Application No. D–1900)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the sale to the Pacific Scientific Company Employee Retirement Plan (the Plan) of an improved parcel of real property (the Property) by the Pacific Scientific Comnpany (the Employer), a party in interest with respect to the Plan; (2) a lease (the Lease) of the Property by the Plan to the Employer; (3) an assumption by the Plan of the Employer's obligations pursuant to a note and deed of trust; and (4) a guarantee by the Employer to the Plan with regard to the Plan's future disposition of the Property.

The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Plan, the Employer, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before December 2, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1900. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a noncontributory defined benefit plan. As of January 1, 1980, the Plan had 390 participants and had net assets of approximately $4,786,000. The Plan's Investment Advisory Committee (the Committee) is responsible for the investment of Plan assets. The United California Bank is the trustee of the Plan and invests and administers Plan assets at the direction of the Committee.

2. The Employer manufactures restraint equipment and electronic instruments. The Employer also sells and services various products manufactured by other companies. The Employer is a publicly held company whose stock is traded on the New York Stock Exchange. As of January 1, 1980, the Employer had a net worth of $23,053,000. In 1979, the Employer had net earnings of $5,161,000.

3. On December 28, 1979, the Employer purchased from an unrelated party, Hycel, Inc., the Royco Instruments Division of Hycel. Among the assets acquired was the Property. The Employer purchased the Property subject to a note (the Note) dated December 1, 1978, in the original principal amount of $1,245,000. The Note bears interest at the ratge of 9¼ percent per annum, and is payable on January 1, 1994 to the Prudential Insurance Company of America. The Note is secured by a first deed of trust on the Property.

4. The Property is located at 141 Jefferson Drive, Menlo Park, California, and forms part of the master planned Bohannon Industrial Park. A complete appraisal by a qualified, independent appraiser, the Tait Appraisal Company (Tait), determined that, as of February 1, 1980, the fair market value of the Property was $2,400,000. Tait determined that, based upon an "income" approach, the Property could be expected to yield an annual net income of approximately $257,000.

5. The Plan seeks to purchase the Property from the Employer for its appraised fair market value of $2,400,000, and lease the Property to the Employer. The Plan will pay $1,178,000 in cash, and assume the Employer's obligations with respect to the Note and deed of trust. The Employer will pay all costs related to the purchase of the Property.

6. The Lease terms provide for an initial fifteen (15) year term. The Employer will have the option to renew the Lease for two consecutive five year terms upon 180 days written notice to the Plan. The initial annual rental payable to the Plan, $268,000, is $11,000 grater than the amount of income the Property could be expected to yield as determined by the appraisal. A complete appraisal of the Property by a qualified, independent appraiser will be made every three years and the rental payments will be adjusted to reflect the fair market rental value. In no event will the rental payments be less than the rental payments received in the preceding three year period. The Lease is a "triple net" lease, and the Employer will incur the cost of the reappraisals.

7. The Note provides for equal monthly principal and interest payments of $10,665.50 (or $127,986 per year) until maturity, at which time a "balloon" payment is due. The Note also provides that after December 1, 1988 payments under the Note may be fully amortized to avoid effecting a "balloon" payment at maturity. The Plan therefore intends to increase its monthly payments pursuant to the Note to $21,392 (or $256,705 per year) after December 1988 until maturity on January 1, 1994 so that payments under the Note will be fully amortized and no "balloon" payment will be due. The initial annual rental payable to the Plan, $268,000, being the minimum annual rental to be received by the Plan during the term of the Lease, will always be in excess of the annual amounts the Plan will be paying pursuant to the Note and will be sufficient to pay the Plan's unrelated debt-financed income tax liability under section 514 of the Code.

8. The Employer will deposit $268,000 with the Plan (the Security Deposit) upon the execution of the Lease to be used as security for the Employer's obligations pursuant to the Lease. The Security Deposit may be applied toward monthly rental payments due during the last six months of the final term of the Lease, provided that in no event during that time will the Security Deposit be reduced below the amount of $50,000. The Security Deposit can be used by the Plan for payment of any sums which the

Plan may become obligated to pay as a result of a default by the Employer.

9. In the event the Employer defaults with respect to any of its obligations under the Lease, the Plan will have the right to sell the Property to the Employer at a price equal to the greater of the original pruchase price, or the fair market value of the Property, as determined by a complete appraisal, at the date of sale.

10. The Property will represent approximately 40 percent of the Plan's net assets after its purchase. The Property will initially provide an annual rate of return equal to approximately 11 percent of its appraised value. The rate of return is expected to increase as rental payments are adjusted every three years to reflect the fair market rental value of the Property.

11. The Title Insurance and Trust Company (Title) will be appointed as the trustee of the Plan with respect to the Property. Title is independent of the Employer and has determined that the proposed transactions, including the terms thereof, are appropriate for the Plan, taking into consideration the Plan's overall investment portfolio. Title will also completely monitor the terms of the Lease and may take any reasonable and legal steps to protect the rights of the participants and beneficiaries of the Plan.

12. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because (a) the purchase price of the Property and the rental to be received pursuant to the Lease have been determined pursuant to a complete appraisal by an independent, qualified appraiser; (b) the Plan will receive a cash deposit from the Employer upon the execution of the Lease to be used as security for the employer's obligations under the Lease; (c) the rental received by the Plan will be adjusted every three years, pursuant to an appraisal, to reflect the fair market rental value of the Property; (d) the Plan may sell the Property back to the employer for its appraised fair market value, provided that the sale price is not less than the original purchase price of the Property, if the Employer defaults with respect to any of its obligations under the Lease; (e) an independent party, Title, will maintain complete responsibility with respect to the Property, and will completely monitor the terms of the Lease; and (f) Title has reviewed the appraisal of the Property and the Lease and represents that the proposed transactions are in the best interests of the Plan and of its participants and beneficiaries, and are an appropriate investment for the Plan, taking into consideration the Plan's overall investment portfolio.

Notice to Interested Persons

Notice will be provided to all participants and beneficiaries of the Plan by mailing or delivering a copy of this Notice of Proposed Exemption as published in the **Federal Register** to be postmarked no later than fifteen (15) days after such publication. Additionally, such Notice of Proposed Exemption will be posted on appropriate employee bulletin boards within such fifteen (15) day period.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of a exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation, of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the purchase of the Property from the Employer by the Plan; (2) the lease of the Property to the Employer; (3) an assumption by the Plan of the Employer's obligations pursuant to the Note and deed of trust; and (4) a guarantee by the Employer to the Plan with regard to the Plan's disposition of the Property upon the default by the Employer on any of its obligations under the Lease.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in this application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 9th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32389 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

Proposed Exemption for Certain Transactions Involving the Wisconsin State Carpenters Pension Fund, Located in Eau Claire, Wis. (Application No. D-1352)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the making of long-term mortgage loans by the Wisconsin State Carpenters Pension Fund (the Plan) in situations where the loans would be arranged by and purchased from mortgage bankers which are service providers to the Plan, and therefore, parties in interest. The proposed exemption, if granted, would affect the Plan, participants and beneficiaries of the Plan, the mortgage banking institutions involved, contributing employers to the Plan, and any other persons participating in transactions to which the exemption might be applicable.

DATES: Written comments must be received by the Department of Labor on or before December 5, 1980. If granted, the exemption will be effective from the date of grant.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1352. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a multi-employer collectively bargained plan, participants in which are employed in the construction industry. There are approximately 15,468 Plan participants. Plan assets total approximately $29,332,618 as of June 30, 1980.

2. The board of trustees of the Plan is composed of 22 members, 11 appointed by employers and 11 union-appointed, with power to cast an equal number of aggregate votes. Because of the size of the full board of trustees, standing committees have been established to perform on-going administrative and management functions for the Plan.

Fiduciary duties are expressly delegated to standing committees. Of such standing committees, the Plan Investment Committee is charged with decisions regarding management of Plan assets. Moreover, investment managers may be appointed for the Plan.

3. Four employer-appointed and four union-appointed trustees comprise the Investment Committee. The primary duties of the Investment Committee are to oversee the activities of investment managers, who are responsible for approximately three-quarters of the Plan's assets. Additionally, the Investment Committee oversees management of Plan assets, the responsibility for which does not fall upon the investment managers.

4. The Investment Committee acts on all applications for permanent mortgage financing. Such financing is provided only after completion of the construction project involved, replacing the short-term construction loan. Exemption for construction financing is not sought.

No application for mortgage financing is considered by the Investment Committee unless the loan meets published criteria promulgated by that Committee. Mere satisfaction of the published criteria does not result in automatic Investment Committee approval of a particular loan, inasmuch as all loan applications are considered on an individual basis, the published criteria serving only as minimum requirements which must be met before a loan application will be considered at all. Also, the Plan will not extend permanent mortgage financing to any persons who are parties in interest or disqualified persons with respect to the Plan.

5. The Plan makes mortgage loans secured by commercial real property. Construction of such commercial properties may be performed by persons who are parties in interest or disqualified persons with respect to the Plan. Specifically, the transactions for which exemption is sought are commitments on the part of the Plan both to provide a borrower with long-term mortgage financing and to purchase the construction mortgage loan held by the short-term lender. Such purchase is upon completion of the construction project involved.

At the closing of the permanent mortgage loan commitment, the Plan is assigned the first mortgage held by the short-term lender. Such assignment inlcudes the outstanding note, as well as the mortgage, upon receipt of which the Plan advances funds to the short-term lender in satisfaction of the assignment.

6. The Plan regards investments in permanent mortgage loans on commercial real property as being particularly attractive. According to the application, such investments in the past have proved to be an excellent medium for meeting the Plan's long-term investment objectives of principal preservation, investment return, stability of return, and diversification. In addition, the application states that the Plan's investment experience with mortgage loans has been more favorable than with investments managed by outside investment managers. Further, the Plan would be unable to continue its policy of making investments in permanent mortgage loans on commercial real property if the proposed exemption were not granted.

In the past, the Plan has invested less than 10% of its total assets in mortgage loans. If the proposed exemption is granted, the Plan would not invest more than 30 percent of its assets in mortgage loans to which the exemption would be applicable, such percentage to be determined as of the time the commitment for a particular mortgage loan is closed by assignment of the loan from a mortgage banker, as the process more fully is described below. Moreover, if the proposed exemption is granted, the Plan would not invest more than five percent of its assets in any one mortgage loan, such percentage also to be determined as of the time the commitment is closed.

7. The process through which the Plan issues a commitment to make permanent mortgage financing in a particular instance can be summarized as follows.

A prospective borrower approaches a mortgage banker to discuss financing of an anticipated construction project. If the banker reacts favorably to the proposed project, it enters into an arrangement with the borrower, pursuant to which the banker agrees to act as agent for the borrower in attempting to obtain long-term financing. Typically, the agreement provides that the banker will receive an origination fee from the borrower if it is successful in obtaining long-term financing.

The banker prepares a loan offering for submission to potential lenders. The offering typically is upon the terms and conditions then prevailing for such financing, as being carried out by a variety of lenders, including the Plan. The Plan Investment Committee may receive such an offering from a banker, and will review it according. The Investment Committee may accept the terms of the offering as presented, or it may present a counter-proposal. Upon the Investment Committee's being satisfied with a particular offering, or upon acceptance by the potential borrower of the Plan's counter-proposal, the Plan issues its commitment to provide permanent financing for the project involved.

The Plan's commitment imposes certain conditions, in non-satisfaction of which the Plan will not accept the mortgage loan upon completion of the construction project. The conditions include issuance of an appraisal of the completed building, showing that the loan will not exceed 75 percent of the appraised value; issuance of a title policy insuring the Plan's first mortgage status in an amount at least equal to the amount of the loan; receipt of an architect's certificate that construction conforms to requisite plans and specifications and meets applicable zoning and ordinance restrictions; issuance of a certificate from the appropriate building inspector that the building is ready for occupancy; and presentation of a hazard insurance policy in an amount at least equal to the loan, naming the Plan as payee.

The borrower obtains construction financing, normally through the banker which he approached initially. The borrower, the banker and the Plan become parties to an agreement which confirms the understanding of the parties that upon completion of the project the Plan will provide permanent financing.

Throughout construction, the banker monitors the project. Upon completion of the project, the banker makes the necessary inspections and then schedules the loan closing, at which time the mortgage and note are assigned to the Plan as discussed above.

The Plan considers only those loan offerings presented by corporate mortgage bankers which the Investment Committee considers experienced and responsible. The application states that an exemption is sought for entering into loan commitments with none other than those mortgage bankers who are parties in interest with respect to the Plan solely as a consequence of servicing other mortgage loans.

According to the application, the use of mortgage bankers for servicing of such loans is of benefit to the Plan by assuring availability of loan servicing at lesser expense than would be required if the Plan were to service such loans itself.

8. Determinations to make commitments with respect to particular mortgage loans result from exclusive decisions of the Investment Committee. Such decisions are not subject to review or confirmation by the trustees as a whole.

9. In summary, the applicant represents that the statutory criteria contained in Section 408(a) of the Act have been satisfied because:

(a) the process by which the Plan makes mortgage loans is well established and subject to review, with a history of successful long-term mortgage investments;

(b) the applicant represents that long-term mortgage loans provide stable investment returns at attractive yields;

(c) the Plan has rigorous standards for acceptance of any loan; and

(d) the trustees have determined that the transactions are appropriate for the Plan and in the best interests of the participants and beneficiaries of the Plan.

Notice to Interested Persons

Within twenty days of publication in the **Federal Register**, notice of the proposed exemption will be sent by bulk mailing to all contributing employers to the Plan, and to each union, members of which are participants in the Plan, for conspicuous posting by such union. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act. Among other things, section 404 requires that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B). Moreover, an exemption does not affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the proposed exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested

exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to issuance by the Plan of commitments, in accordance with the limitations and procedures discussed above, obligating the Plan to purchase mortgage loans on commercial real estate, where such commitments are made to financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgage loans for the Plan. Moreover, the foregoing exemption shall apply only if the following conditions are met:

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arm's-length transactions between unrelated parties.

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan, records are lost or destroyed prior to the end of the six-year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the sanctions imposed by section 4975 of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service;

(ii) Any employer, or duly authorized representative of such employer, of employes who are covered by the Plan;

(iii) Any employee organization, or duly authorized representative of such organization, members of whom are covered by the Plan;

(iv) Any participant or beneficiary of the Plan or any duly authorized representative of such participant or beneficiary.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of October, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-32388 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-10,256]

Banner Spring and 4-Slide Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on August 4, 1980 which was filed by the United Steelworkers on behalf of workers and former workers producing wire and rod forms, stampings and jack supplies at the Banner Spring and 4-Slide Company, Taylor, Michigan.

The Notice of Investigation was published in the **Federal Register** on August 22, 1980 (45 FR 56212-13). No public hearing was requested and none was held.

In a letter dated September 19, 1980 the petitioners requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-32473 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,717]

Bridgeport Brass; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980, in response to a worker petition received on September 8, 1980, which was filed by the United Steelworkers of America on behalf of workers and former workers of Bridgeport Brass, Bridgeport, Connecticut (TA-W-10,717). On August 18, 1980, a petition was filed on behalf of the same group of workers (TA-W-10,453).

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,453, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 3rd day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-32478 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

Brunswick Corp., Marine Power Group; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make affirmative determinations and issue certifications of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigations were initiated on April 14, 1980 in response to petitions which were filed by the International Association of Machinists and Aerospace Workers on behalf of workers at the Brunswick Corporation, Marine Power Group facilities listed in Appendix I. Workers in these facilities produce outboard motors and/or sterndrive motors. The investigation revealed that all Brunswick Corporation, Marine Power Group facilities are parts of an integrated production process for the manufacture of outboard motors and/or sterndrive motors for boats. The investigation was expanded to include the facilities listed in Appendix I.

In the following determinations, without regard to whether any of the other criteria have been met, with respect to workers producing sterndrive motors, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of sterndrive motors are negligible. Imports of sterndrive motors relative to domestic production have been insignificant during the past three years.

With respect to workers producing outboard motors, all of the criteria have been met.

U.S. imports of outboard motors increased relative to domestic production and consumption in 1979 compared with 1978 and increased both absolutely and relatively during the first half of 1980 compared with the first half of 1979.

The Brunswick Corporation's Marine Power Group increased its imports of outboard motors in 1979 compared with 1978 and in the first half of 1980 compared with the same time period in 1979. Marine Power's imported outboards represented a significant and increasing percentage of Marine Power's production and sales of outboards in 1979 and 1980. These imports also accounted for the majority of Marine Power's production decline in the first half of 1980 compared with the same time period in 1979. Imported outboard motors increased their share of the domestic market from 1978 to 1979 and during the first half of 1980 compared with the same period in 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with outboard motors produced at the Brunswick Corporation, Marine Power Group plants listed in Appendix I contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the locations of the Brunswick Corporation's Marine Power Group listed in Appendix I engaged in employment related to the production of outboard motors who became totally or partially separated from employment on or after the respective impact dates listed in Appendix I are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 7th day of October 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

Appendix I

Location, TA-W-, and impact date

#1 Cedarburg, WI—7593, July 15, 1979
#2 Cedarburg, WI—7594, December 15, 1979
#5 Oshkosh, WI—7595, December 15, 1979
#3 Fond du Lac, WI—7596, November 11, 1979
#4 & 4A Fond du Lac, WI—7597, February 15, 1979
#8 Fond du Lac, WI—7598, July 15, 1979
#10 Fond du Lac, WI—7599, October 15, 1979
#15 & 16 Fond du Lac, WI—7600, July 15, 1979
#17 Fond du Lac, WI—7601, February 15, 1979
#98, WI—7602, April 15, 1980

The investigation was expanded to include these production facilities and Mercury distribution center:

Location, TA-W-, and impact date

#7 St. Cloud, Fla.—7602A, January 15, 1980
#70 Santa Ana, CA—7593A, March 15, 1980
#72 Denver, CO—7593B, March 15, 1980
#73 Norcross, GA—7593C, January 15, 1980
#74 Auburn, MA—7593D, December 15, 1979
#75 Hayward, CA—7593E, March 15, 1980
#76 Orlando, FL—7593F, December 15, 1979
#77 East Brunswick, NJ—7593G, April 15, 1980
#78 Fort Wayne, IN—7593H, March 15, 1980

[FR Doc. 80-32480 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7788]

Clark Reed Shake Co.; Affirmative Determination Regarding Application for Reconsideration

On August 7, 1980, the employees requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of the Clark Reed Shake Company, Quinault, Washington. The determination was published in the **Federal Register** on July 17, 1980, (45 FR 49702).

The application for reconsideration claimed that the Department's investigation was incomplete because (1) Canadian imports of cedar shakes at lower prices caused a downturn in employment and sales at Clark Reed Shake Company rather than a decrease in housing starts; (2) company sales are made through brokers who distribute the shake products to the brokers' customers, and these same brokers buy shakes from other mills that have been declared eligible for Trade Act benefits; (3) increases in value of Clark Reed cedar shake sales in 1979 were due to inflation; and (4) increased employment in 1979 was due to the installation of an extra saw to handle rougher types of wood.

Conclusion

After review of the application, I conclude that the employees' claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 3rd day of October 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-32479 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,669]

Hawley Coal Mining Corp.; #1 Mine; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on August 28, 1980 which was filed on behalf of workers at the #1 Mine, Landgraff, McDowell County, West Virginia of the Hawley Coal Mining Corporation. The workers mine metallurgical coal.

On September 16, 1980, workers at the #1 and #2 Mine, Landgraff, McDowell County, West Virginia, Hawley Coal Corporation, (also known as Hawley Coal Mining Corporation) were denied eligibility to apply for adjustment assistance (TA-W-10,286).

On September 8, 1980, the Department instituted a second investigation on behalf of workers at the #1 Mine, McDowell County, West Virginia, Hawley Coal Mining Corporation. The petition alleges that foreign imports have depressed sales of metallurgical coal thus causing layoffs at the mine in August, 1980. The second petition presents no new information which would change the determination made in TA-W-10,286.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-10,669) and since the current petition presents no additional information pursuant to the previous determination (TA-W-10,286) that would change the previous determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 3rd day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-32474 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,670]

Hawley Coal Mining Corp.; No. 2 Mine; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in

response to a worker petition received on October 17, 1979 which was filed on behalf of workers at the #2 Mine, Landgraff, McDowell County, West Virginia of the Hawley Coal Mining Corporation, Keystone, West Virginia. The workers mine metallurgical coal. The petition alleges that imports have depressed sales of metallurgical coal this causing the layoffs beginning in August, 1980.

On September 16, 1980, workers at the #1 and #2 Mines, Landgraff, McDowell County, West Virginia, Hawley Coal Corporation (also known as Hawley Coal Mining Corporation) were denied eligibility to apply for adjustment assistance (TA-W-10,286).

On September 8, 1980, the Department instituted a second investigation on behalf of workers at the #2 Mine, Landgraff, McDowell County, West Virginia, Hawley Coal Mining Corporation. The petition alleges that foreign imports have depressed sales of metallurgical coal thus causing layoffs at the mine in August, 1980. The second petition presents no new information which would change the determination made in TA-W-10,286.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-10,670) and since the current petition presents no additional information pursuant to the previous determination (TA-W-10,286) that would change the previous determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 8th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-32481 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7505]

Jung Great Lakes Shoe, Inc.; Negative Determination Regarding Application for Reconsideration

By an application dated July 30, 1980, former workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing men's work boots and slippers at the Oconto, Wisconsin plant of Jung Great Lakes Shoe, Inc., Oconto, Wisconsin. The determination was published in the Federal Register on July 18, 1980, (45 FR 48289).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The former workers claimed in their application for reconsideration that felt liners, a component of the work boots manufactured at the Oconto, Wisconsin plant of Jung Great Lakes Shoe were imported into the plant in 1979 and as such contributed importantly to their layoffs. They also claimed that the manufacture of felt liners was their main activity.

The Department's review showed that workers at Jung Great Lakes Shoe's Oconto, Wisconsin plant did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's customer survey showed that most respondents did not buy imported work boots and slippers. Those customers who reduced their purchases of footwear from Jung and increased their purchases of imports accounted for an insignificant proportion of company sales in 1979 and the first quarter of 1980. Further, U.S. imports of men's work footwear declined absolutely and relative to domestic production in 1979 compared to 1978 and in the first six months of 1980 compared to the same period in 1979.

Although the company imported some felt liners from Canada in early 1980, the Department could not find a sufficient basis for the recognition of an appropriate subdivision comprising only felt liners since the work on felt liners constituted only an insignificant part of the production at the Oconto plant and the workers, with one possible exception, employed on felt liners at the Oconto plant spent only a minor amount of their time in this activity and were not separately identifiable.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 7th day of October 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-32477 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,318]

Norwood Engineering Co., Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 25, 1980 in response to a worker petition received on August 14, 1980 which was filed on behalf of workers and former workers producing special tooling at Norwood Engineering Company, Incorporated, Dayton, Ohio.

In a letter dated September 8, 1980, the petitioners requested that the petition be withdrawn. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-32476 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,732]

Thompson Steel Co., Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980 in response to a worker petition received on September 8, 1980 which was filed by the United Steelworkers of America on behalf of workers and former workers producing cold rolled strip steel for Thompson Steel Company, Baltimore, Maryland.

In a letter received on September 25, 1980 the petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-32475 Filed 10-16-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

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 worker adjustment assistance issued during the period.

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 of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-10,455; Grow Group, Inc., Automotive Division, Pontiac, Mich.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of automotive coatings are negligible.

TA-W-9678; White Pine Sportswear, Inc., Brooklyn, N.Y.

Investigation revealed that criterion (3) has not been met. The closure of the firm and separation of workers resulted from a fire which occurred in January 1980.

TA-W-9447; Joseph T. Ryerson & Son, Inc., Dayton, Ohio

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9633; United Technologies Corp., Automotive Division, Tampa, Fla.

Investigation revealed that criterion (3) has not been met. U.S. imports of electronic circuit boards did not increase as required for certification under Section 223 of the Act.

TA-W-8996; Anaconda Industries, American Brass & Magnet Wire, Business Operations, and Buffalo Operations; Buffalo, N.Y.

Investigation revealed that criterion (3) has not been met. U.S. imports of copper and brass sheet strips have not increased as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8876; Cummings Leather Co., Lebanon, N.H.

Investigation revealed that criterion (3) has not been met. U.S. imports of cattle hides did not increase as required for certification under Section 223 of the Act.

TA-W-7842; Mt. Baker Cedar, Inc., Port Angeles, Wash.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7721; Texaco, Inc., River Rouge, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9607; Conrail, Buffalo Division, Buffalo, N.Y.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-9726; R.C. Co., Inc., Grand Rapids, Mich.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8982; J.J. Co., Atlantic City, N.J.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7740; The Newburgh & South Shore Railway Co., Cleveland, Ohio

Investigation revealed that criterion (3) has not been met. The Workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974. Further, workers of the plant serviced by the subject firm are currently covered by an active certification.

TA-W-8907; Magnavox Consumer Electronics Co., Greeneville, Tenn.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of television did not increase as required for certification.

TA-W-10,185; Uniwear Inc., Akron, Ohio.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,271, 10,272, and 10,273; Unger Public Warehouses, Inc., Detroit, Mich.; Wayne, Mich.; and Highland Park, Mich.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-9998; Kaiser Aluminum & Chemical Sales, Inc., Kaiser Lng. Product, Mobile, Ala.

Investigation revealed that criterion (3) has not been met. U.S. imports of liquified natural gas tanks are negligible.

TA-W-8616; Friendly Mfg. Co., Montesano, Wash.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7664; Automotive Spring Corp., Detroit, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7357; LaSalle Steel Co., Hammond, Ind.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8669; Union Carbide Corp., Wayne, N.J.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–9770; Brown Shoe Co., Fredericktown, Mich.

The investigation revealed that criterion (2) has not been met.

TA–W–8731; Inmont Corp., Detroit, Mich.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of paints, varnishes, and lacquers are negligible.

Affirmative Determinations

TA–W–9084; Parker & Sons, Inc., Copalis Beach, Wash.

A certification was issued applicable to all workers at the subject firm separated on or after June 3, 1979.

TA–W–7358; Schwitzer Coaling System Division, Rolla, Mo.

A certification was issued covering all workers of the firm separated on or after July 1, 1979.

I hereby certify that the aforementioned determinations were issued during the period October 6–10, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: October 14, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–32487 Filed 10–16–80; 8:45 am]

BILLING CODE 4510–28–M

NUCLEAR REGULATORY COMMISSION

NRC Enforcement Program: Public Meetings

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meetings concerning NRC enforcement policy.

SUMMARY: On September 4, 1980, the Nuclear Regulatory Commission approved publication of a proposed general policy statement on enforcement actions for public comment and interim use. The interim policy statement was published in the **Federal Register** on October 7, 1980 (45 FR 66754).

This notice announces one-day public meetings that are to be held in five locations to obtain and consider public comments on the proposed enforcement policy.

DATES:

Meeting Dates and Locations

The public meetings will be held at the following times and places:

Atlanta, Georgia on December 1, 1980 in Stadium Hotel, 450 Capitol Ave., Atlanta, Georgia 30312.

Chicago, Illinois on December 2, 1980 in Sheraton O'Hare Hotel, 6810 Mannheim Road, Rosemont, Ill.

Philadelphia, Pennsylvania on December 4, 1980 in Holiday Inn-Midtown, 1311 Walnut Street, 19107.

Irving, Texas on December 9, 1980 in Holiday Inn-South, 444 W. Airport Freeway, 75061.

Oakland, California on December 11, 1980 in the Hyatt House, 455 Hegenberger Road, 94621.

SUPPLEMENTARY INFORMATION:

I. *Public participation.*—Any individual may make a written or oral request to NRC for an opportunity to be scheduled to speak at one of the meetings. Each request must state (1) the identity of the speaker, (2) the length of the presentation (not to exceed 15 minutes), (3) organization(s) the speaker represents, and (4) a mailing address and daytime telephone number through which the speaker may be contacted. Requests to speak should be made at least five days in advance of the meetings to any of the following:

Karl Abraham, NRC Region I, 631 Park Avenue, King of Prussia, PA 19406, (215) 337–5330;

Kenneth Clark, NRC Region II, 101 Marietta Street, Atlanta, GA 30303, (404) 221–4503;

Jan Strasma, NRC Region III, 799 Roosevelt Road, Glan Ellyn, IL 60137, (312) 932–2674;

Clyde Wisner, NRC Region IV, 611 Ryan Plaza Drive, Arlington, TX 76012, (817) 334–2841;

James Hanchett, NRC Region V, 1990 N. California Blvd., Walnut Creek, CA 94956, (415) 943–3809.

Individuals not making an advance request may register to speak at the meetings. Time for such late-scheduled presentations will depend on the time available. Any further procedural rules needed for the proper conduct of the meetings will be announced by the meeting chairman.

II. *Conduct of the meeting.*—In each of the above cities, public meetings will be held from 1 p.m. to 10 p.m. with a recess from 5 p.m. to 7 p.m., or to the extent indicated by requests for participation. The purpose of the meeting is to provide an opportunity for interested persons to voice their questions and comments on the proposed enforcement policy.

Each of the meetings will follow the same agenda: (1) Registration; (2) introduction and opening NRC remarks; and (3) receipt of comments. Remarks will consist of a summary of the enforcement policy and its implementation. The remainder of the time will be available for interested persons to ask questions and make comments.

III. *Purpose of the enforcement policy.*—The enforcement authority of the Nuclear Regulatory Commission is drawn from the Atomic Energy Act of 1954 as amended, and the Energy Reorganization Act of 1974. NRC requires licensee compliance with regulatory requirements and takes enforcement action to foster improvement in licensee performance when noncompliance is identified. Enforcement actions available to NRC include notices of violations, orders modifying licenses, suspending operations, revoking licenses or requiring cease and desist actions and imposition of civil penalties (fines). In June 1980, Pub. L. 96–295 amended the Atomic Energy Act to raise the maximum civil penalty from $5,000 to $100,000 and to eliminate a provision limiting civil penalties in any 30-day period to $25,000.

The proposed policy explains how NRC intends to use these enforcement authorities in matters involving public health and safety, the common defense and security, and the environment. The policy categorizes all violations in terms of six levels of severity for each type of license activity and specifies the conditions under which each enforcement sanction available to NRC would be used.

The NRC is specifically seeking comment on the following:

(1) Is the policy fair and equitable?

(2) Is the policy understandable?

(3) Are the Severity Levels appropriate?

(4) Are the different types of activities well-enough defined? Should there be others?

(5) Are the distinctions among various types of licensees shown in Table 1 appropriate?

(6) Are the factors for determining the level of enforcement actions appropriate? Should there be others?

(7) Is the degree of discretion allowed to Office Directors appropriate? Should there be more flexibility permitted? Less?

(8) Are the levels of civil penalties that require Commission involvement appropriate? Should they be higher? Lower?

(9) Are the provisions for escalated action, set forth in Table 2, appropriate?

Copies of the enforcement policy may be obtained by contacting the individuals named above at the NRC regional offices.

Transcripts of the meetings will be filed in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the regional offices.

Dated at Bethesda, Md., this 14th day of October 1980.

Dugley Thompson,

Director, Office of Enforcement and Investigations, Office of Inspection and Enforcement.

[FR Doc. 80-32328 Filed 10-16-80; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Accounts; Public Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Actuarial Advisory Committee will hold a meeting on November 24, 1980, at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 15th Actuarial Valuation of the Railroad Retirement Account. The agenda for this meeting will include the results of the recently completed mortality, remarriage and family composition studies for the 15th Valuation, together with the recommendations of the Chief Actuary as to the mortality, remarriage and family composition assumptions to be used for the 15th Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

Dated: October 7, 1980.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-32455 Filed 10-16-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 10, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Akzona Inc.; Common Stock, $1.25 Par Value (File No. 7-5745)
Automatic Data Processing, Inc.; Common Stock, $.10 Par Value (File No. 7-5746)
Bache Group, Inc.; Common Stock, $2 Par Value (File No. 7-5747)
Bay Financial Corp. (Del.); Common Stock, No Par Value (File No. 7-5748)
Belden Corp.; Common Stock, $5 Par Value (File No. 7-5750)
Benguet Corporation; Common Stock Class B, .77 (Philippine Currency) (File No. 7-5751)
Beverly Enterprises; Common Stock, $.10 Par Value (File No. 5752)
Castle & Cooke, Inc.; Common Stock, No Par Value (File No. 7-5753)
Chris-Craft Industries, Inc.; Common Stock, $.50 Par Value (File No. 7-5754)
Consolidated Oil & Gas Co.; Common Stock, $.20 Par Value (File No. 7-5755)
Crestmont Oil & Gas Co.; Common Stock, $1 Par Value (File No. 7-5756)
Crouse-Hinds Co.; Common Stock, $1⅔ Par Value (File No. 7-5757)
Dataproducts Corp.; Common Stock, $.10 Par Value (File No. 7-5758)
Di Giorgio Corp.; Common Stock, $2.50 Par Value (File No. 7-5759)
DMG, Inc.; Common Stock, No Par Value (File No. 7-5760)

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 3, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-32410 Filed 10-16-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-10681]

Jones & Laughlin Steel Corp.; Application and Opportunity for Hearing

October 10, 1980.

Notice is hereby given that Jones & Laughlin Steel Corporation ("J&L") and Mellon Bank N.A. ("Mellon") have filed an application under Clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Mellon under an indenture dated September 1, 1947, between J&L and Mellon National Bank and Trust Company (now Mellon N.A.), as amended, through the date of such application, heretofore qualified under the Act, and under an indenture dated as of August 1, 1980 between Mellon and Beaver County Industrial Development Authority not qualified under the Act, and under another indenture to be dated as of a future date between Mellon and the Ohio Air Quality Development Authority not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Mellon from acting as Trustee under any such indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under such qualified indenture and any other indenture is not

so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Company alleges that: 1. Jones & Laughlin Steel Corporation, a Pennsylvania corporation ("J&L Steel"), has entered into a Pollution Control Facilities Agreement, dated as of August 1, 1980 (the "Facilities Agreement"), with the Beaver County Industrial Development Authority (the "Beaver County Authority") providing for the acquisition and construction from time to time by the Beaver County Authority of facilities (the "Beaver County Project Facilities") designed for the abatement of air and/or water pollution or the disposal of sewage or solid waste located at operations of J&L Steel situated in the Commonwealth of Pennsylvania, and for the sale thereof to J&L Steel. The Beaver County Facilities Agreement provides for financing the acquisition and construction of the Beaver County Project Facilities by the Beaver County Authority through the issuance from time to time of its Pollution Control Revenue Bonds (Jones & Laughlin Steel Corporation Project) (the "Beaver County Pollution Control Revenue Bonds") in one or more series under a Trust Indenture dated as of August 1, 1980 (the "Beaver County Pollution Control Revenue Bond Indenture"), between the Beaver County Authority and Mellon as Trustee (the "Beaver County Pollution Control Revenue Bond Trustee"). J&L Steel will purchase Beaver County Project Facilities from the Beaver County Authority for a purchase price equal to the principal amount of any series of Beaver County Pollution Control Revenue Bonds issued to finance the acquisition and construction of such Beaver County Project Facilities. J&L Steel will satisfy its obligation to pay the purchase price of Beaver County Project Facilities by delivery to the Beaver County Pollution Control Revenue Bond Trustee of one or more series of its first mortgage bonds (the "First Mortgage Bonds") corresponding to the series of Beaver County Pollution Control Revenue Bonds issued to finance the acquisition and construction of Beaver County Project Facilities in respect of principal amount, interest rates, maturity dates and redemption provisions. All First Mortgage Bonds will be issued under and secured by the Indenture of Mortgage and Deed of Trust, dated September 1, 1947, from J&L Steel and certain subsidiary companies to Mellon National Bank and Trust Company (now Mellon Bank, N.A.) (the "Mortgage Trustee") and N.R. Smith, as amended and supplemented (the "Mortgage Indenture").

2. J&L Steel proposes to enter into a Pollution Control Facilities Agreement, to be dated as of a future date (the "Ohio Facilities Agreement"), with the Ohio Air Quality Development Authority (the "Ohio Authority") providing for the acquisition and construction from time to time by the Ohio Authority of facilities (the "Ohio Project Facilities") designed for the abatement of air and/or water pollution or the disposal of sewage or solid waste located at operations of J&L Steel situated in the State of Ohio, and for the sale thereof to J&L Steel. The Ohio Facilities Agreement will provide for financing the acquisition and construction of the Ohio Project Facilities by the Ohio Authority through the issuance from time to time of its Pollution Control Revenue Bonds (Jones & Laughlin Steel Corporation Project) (the "Ohio Pollution Control Revenue Bonds") in one or more series under a Trust Indenture, to be dated as of a future date (the "Ohio Pollution Control Revenue Bond Indenture"), between the Ohio Authority and Mellon Bank, N.A., as Trustee (the "Ohio Pollution Control Revenue Bond Trustee"). J&L Steel will purchase Ohio Project Facilities from the Ohio Authority for a purchase price equal to the principal amount of any series of Ohio Pollution Control Revenue Bonds issued to finance the acquisition and construction of such Ohio Project Facilities. J&L Steel will satisfy its obligation to pay the purchase of Ohio Project Facilities by delivery to the Ohio Pollution Control Revenue Bond Trustee of one or more series of its First Mortgage Bonds corresponding to the series of Ohio Pollution Control Revenue Bonds issued to finance the acquisition and construction of Ohio Project Facilities in respect of principal amount, interest rates, maturity dates and redemption provisions. All First Mortgage Bonds will be issued under and secured by the Mortgage Indenture.

3. The Beaver County Authority proposes to issue and sell $33,500,000 aggregate principal amount of its Beaver County Pollution Control Revenue Bonds, Series 1980 (Jones & Laughlin Steel Corporation Project) (the "Beaver County Series 1980 Pollution Control Revenue Bonds") to finance the acquisition and construction of air and/or water control facilities (the "Beaver County Project Facilities") located at the Aliquippa Works of J&L Steel in Beaver County, Pennsylvania. $6,000,000 of the Beaver County Series 1980 Pollution Control Revenue Bonds will be due August 1, 1990 and $27,500,000 of the Beaver County Series 1980 Pollution Control Revenue Bonds will be due August 1, 2010, subject to mandatory redemption of the longer-term series through the operation of a sinking fund. Concurrently with the issuance and the sale of the Beaver County Series 1980 Pollution Control Revenue Bonds, J&L Steel will deliver directly to the Beaver County Pollution Control Revenue Bond Trustee $6,000,000 aggregate principal amount of its First Mortgage Bonds, Series P, and $27,500,000 aggregate principal amount of its First Mortgage Bonds, Series Q (collectively the "Series P and Q First Mortgage Bonds"), issued under the Eightieth Supplemental Mortgage Indenture, dated as of August 1, 1980 (the "Eightieth Supplemental Mortgage Indenture"), to the Mortgage Indenture.

4. The Ohio Authority proposes to issue and sell approximately $26,000,000 aggregate principal amount of its Ohio Pollution Control Revenue Bonds, Series 1980 (Jones & Laughlin Steel Corporation Project) (the "Ohio Series 1980 Pollution Control Revenue Bonds") to finance the acquisition and construction of air and/or water control facilities (the "Ohio Project Facilities") located at the Cleveland Works of J&L Steel in Cleveland, Ohio. Approximately $5,200,000 of the Ohio Series 1980 Pollution Control Revenue Bonds will be due in 1990, approximately $10,400,000 of the Ohio Series 1980 Pollution Control Revenue Bonds will be due in 2000 and approximately $10,400,000 of the Ohio Series 1980 Pollution Control Revenue Bonds will be due in 2010, subject to mandatory redemption of the two longer-term series through the operation of a sinking fund. Concurrently with the issuance and the sale of the Ohio Series 1980 Pollution Control Revenue Bonds, J&L Steel will deliver directly to the Ohio Pollution Control Revenue Bond Trustee approximately $5,200,000 aggregate principal amount of its First Mortgage Bonds, Series R, $10,400,000 aggregate principal amount of its First Mortgage Bonds, Series S and $10,400,000 aggregate principal amount of its First Mortgage Bonds, Series T (collectively the "Series R, S and T First Mortgage Bonds"), issued under a future supplemental mortgage indenture, to be dated at a future date, to the Mortgage Indenture.

5. The Series P and Q First Mortgage Bonds will have interest rates, maturity dates and redemption provisions corresponding to the two series of the Beaver County Series 1980 Pollution Control Revenue Bonds due 1990 and

2010. The Series P and Q First Mortgage Bonds will also be subject to mandatory redemption by J&L Steel prior to maturity if the Mortgage Trustee receives a written demand for redemption from the Beaver County Pollution Control Revenue Bond Trustee stating that, as a result of a failure to pay the principal of, premium, if any, or interest on, any Beaver County Series 1980 Pollution Control Revenue Bond, an Event of Default under the Beaver County Pollution Control Revenue Bond Indenture has occurred and is continuing and that payment of the Beaver County Series 1980 Pollution Control Revenue Bonds has been accelerated by the Beaver County Pollution Control Revenue Bond Trustee (see Sections 1.05 and 2.07 of the Eightieth Supplemental Mortgage Indenture).

6. The Series R, S and T First Mortgage Bonds will have interest rates, maturity dates and redemption provisions corresponding to the three series of the Ohio Series 1980 Pollution Control Revenue Bonds due 1990, 2000 and 2010. The Series R, S and T First Mortgage Bonds will also be subject to mandatory redemption by J&L Steel prior to maturity if the Mortgage Trustee receives a written demand for redemption from the Ohio Pollution Control Revenue Bond Trustee stating that, as a result of a failure to pay the principal of, premium, if any, or interest on, any Ohio Series 1980 Pollution Control Revenue Bond, an Event of Default under the Ohio Pollution Control Revenue Bond Indenture has occurred and is continuing and that payment of the Ohio Series 1980 Pollution Control Revenue Bonds has been accelerated by the Ohio Pollution Control Revenue Bond Trustee.

7. As security for the payment of the Beaver County Series 1980 Pollution Control Revenue Bonds, the Beaver County Authority will assign to the Pollution Control Revenue Bond Trustee all its right, title and interest in the Series P and Q First Mortgage Bonds, the Beaver County Facilities Agreement and, with certain exceptions, the amounts payable thereunder, including amounts required pursuant to Section 5.9 of the Beaver County Facilities Agreement to make up any deficiency which would result if for any reason the amounts paid on the First Mortgage Bonds assigned to the Beaver County Trustee are not sufficient to make the corresponding payments with respect to the Beaver County Pollution Control Revenue Bonds.

8. As security for the payment of the Ohio Series 1980 Pollution Control Revenue Bonds, the Ohio Authority will assign to the Pollution Control Revenue Bond Trustee all its right, title and interest in the Series R, S and T First Mortgage Bonds, the Ohio Facilities Agreement and, with certain exceptions,the amounts payable thereunder, including amounts required pursuant to Section 5.9 of the Ohio Facilities Agreement to make up any deficiency which would result if for any reason the amounts paid on the First Mortgage Bonds assigned to the Ohio Trustee are not sufficient to make the corresponding payments with respect to the Ohio Pollution Control Revenue Bonds.

9. By virtue of Section 3(a)(2) of the Securities Act of 1933, as amended (the "1933 Act"), the Beaver County and Ohio Series 1980 Pollution Control Revenue Bonds and the related Series P and Q and R, S and T First Mortgage Bonds are exempt from registration under the 1933 Act because the Beaver County and Ohio Series 1980 Pollution Control Revenue Bonds are industrial development bonds, the interest on which is excludable from gross income under Section 103(a)(1) of the Internal Revenue Code of 1954, as amended (the "Code"), by reason of Section 103(c)(4)(f) of the Code.

10. By virtue of Section 304(a)(4)(B) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), the Beaver County and Ohio Pollution Control Revenue Bond Indentures are not required to be qualified under the 1939 Act. Certain provisions which would be required to be included in the Beaver County and Ohio Pollution Control Revenue Bond Indentures if they were qualified under the 1939 Act are not so included.

11. The Mortgage Indenture was originally qualified under the 1939 Act (File No. 22–4039) in connection with the issuance and sale of $100,000,000 aggregate principal amount of First Mortgage Bonds, Series E, which were registered under the 1933 Act (File No. 2–24449). The Fifty-Eighth Supplemental Mortgage Indenture, dated February 1, 1966, to the Mortgage Indenture contains the provisions permitted by the proviso to Section 310(b)(1) of the 1939 Act.

12. Since the Beaver County and Ohio Pollution Control Revenue Bonds will be payable from and secured by First Mortgage Bonds, the Beaver County and Ohio Pollution Control Revenue Bond Indentures are very similar to a "collateral trust indenture" with respect to which an exception to the provisions of Section 310(b) of the 1939 Act is provided by clauses (1)(A) and (1)(B) thereof. Only in the event that for some unforeseen reason, such as a tax imposed upon payments received by the Beaver County or Ohio Pollution Control Revenue Bond Trustee on the First Mortgage Bonds, sufficient amounts are not available from the First Mortgage Bonds to make payments with respect to the Beaver County or Ohio Pollution Control Revenue Bonds, respectively, will the Beaver County or Ohio Pollution Control Revenue Bond Trustee be required to look to the obligations of J&L Steel contained in Section 5.9 of the Beaver County or Ohio Facilities Agreement, rather than exclusively to the First Mortgage Bonds, for payment of the Beaver County or Ohio Pollution Control Revenue Bonds. Even in this event the First Mortgage Bonds would remain the primary collateral under the Beaver County and Ohio Pollution Control Bond Indentures.

13. Mellon currently serves as Trustee under a Pollution Control Revenue Bond Indenture, dated as of April 1, 1975 (the "1975 Pollution Control Revenue Bond Indenture") between Mellon and the Beaver County Industrial Development Authority, the provisions of which are in its relevant respects essentially similar to the provisions in the Beaver County and Ohio Pollution Control Revenue Bond Indentures which form a part of this application. On May 5, 1975, the Securities and Exchange Commission, pursuant to the joint application by J&L Steel and Mellon declared by order that the trusteeship of Mellon was not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Mellon from acting as Trustee under either the 1975 Pollution Control Revenue Bond Indenture or the Mortgage Indenture. Similarly, the provisions of the Mortgage Indenture and those of the Beaver County and Ohio Pollution Control Revenue Bond Indentures and the related Facilities Agreements are not so likely to result in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify from acting as Trustee under any of said Indentures.

The Company has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission, Washington, D.C. 20549.

Notice is further given that any interested person may, not later than November 4, 1980, request in writing

that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-32411 Filed 10-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21742; 70-6501]

Public Service Company of Oklahoma and Transok Pipe Line Co., Proposal To Sell and Lease Back Office Building; Guarantee of Lessee's Obligations by Affiliate

October 9, 1980.

In the matter of Public Service Company of Oklahoma P.O. Box 201 Tulsa, Oklahoma 74102 and Transok Pipe Line Company 600 South Main Street Tulsa, Oklahoma 74101 (70-6501).

Notice is hereby given that Transok Pipe Line Company ("Transok"), an intrastate pipe line company and a subsidiary of Public Service Company of Oklahoma ("PSO"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, has, with its parent, filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

PSO owns an office building in Tulsa, Oklahoma which it presently leases to Transok for a rental of $28,290 per month. The property has a depreciated book value of $1,028,244 and a fair market value of approximately $3,750,000, determined pursuant to appraisal. PSO proposes to sell the property to Pubson Associates Limited Partnership, a Connecticut limited partnership ("lessor") to be formed by Integrated Resources, Inc., which partnership will own the property and enter into a long term net lease ("lease") with Transok as lessee. The sales price of the property will be $3,750,000 cash, subject to appraisal. PSO will guarantee to the lessor all of Transok's obligations as lessee under the lease.

The lease will have a term of 25 years ("basic term"), beginning on the closing date of the transaction, which is anticpated to occur in November, 1980, and will contain two 10-year renewal options. As rental for the use of the property, Transok will agree to pay, monthly in arrears, .643% of the capitalized cost of the property during the first 5 years of the basic term, 1.003% of the capitalized cost of the property during the second 5 years of the basic term, 1.192% of the capitalized cost of the property during the third 5 years of the basic term and 1.303% of the capitalized cost of the property during the last 10 years of the basic term of the lease. If Transok exercises the renewal options, it will be required to pay .767% of the capitalized cost of the property, monthly in arrears, during each month of the renewal term. Capitalized cost, for purpose of calculating the rentals payable by Transok, is defined to be an amount equal to the Lessor's purchase price of the property from PSO plus amounts paid by the lessor for title insurance, recording costs, mortgage taxes and any other costs incurred by the lessor in connection with its permanent mortgage loan. The foregoing rentals have been calculated by the lessor on the assumption that it can obtain permanent financing on terms acceptable to it at a fixed annual interest cost of 12%. The lessor has advised PSO that it has a commitment from an insurance company to provide this financing at the assumed interest rate but the base rentals are subject to adjustment, upward or downward, in the event the permanent financing is at an interest cost other than 12% per annum.

The lease will be a net lease and in addition to Transok's obligation to pay rentals, Transok will be required to pay all taxes (other than income taxes of the lessor), assessments, utility charges, the cost of insurance, repairs and maintenance and will agree to maintain the property in good order and repair and to keep the property free of all liens and encumbrances except those permitted by the terms of the lease. If during the term of the lease the property sustains a casualty (including condemnation) which renders the property unsuitable for restoration and continued use by Transok, or if at any time during the last 10 years of the 25 year basic term of the lease Transok determines that the property has become uneconomical for continued use in Transok's operations, the lease will terminate and Transok will be required to make a rejectable offer to purchase the property at a price determined by reference to a casualty value schedule designated in the lease. Transok will be given the right to sublease the property provided that, upon such a sublease, its obligation under the lease and PSO's obligations under the guaranty will not be affected.

PSO will enter into an Agreement of Guaranty (the "Guaranty") with the lessor pursuant to which PSO will agree, unconditionally and irrevocably, to perform, observe and discharge each and every one of the convenants, agreements, terms and conditions of Transok under the lease, to the extent not performed ty Transok. The Guaranty will provide that PSO shall be required to perform the obligations of Transok under the lease in the event of the disaffirmance of the lease by a trustee or receiver of the property of Transok in a bankruptcy proceeding affecting Transok. PSO will further agree under the guaranty to provide to the lessor certain information relating to its financial condition.

The proceeds to be derived from the sale of the property will be used by PSO to repay short-term borrowings which were incurred for PSO obligations, including projects under construction. Approximately $13,400,000 of short-term borrowings are expected to be outstanding as of November 30, 1980, the anticipated closing date of the sale to the lessor. No funds generated from the sale of the property will be utilized to pay the cost of facilities which would not be needed to provide service to customers of PSO if it were not part of the Central and South West System. No expenditures will be made by PSO for the constructionor acquisition of any facility not so needed prior to the time all funds covered by this declaration have been expended. For the purpose of the foregoing representation, it is assumed that none of the facilities the construction or acquisition of which would be part of any proposal forming the subject of the proceedings in *Central and South West Corporation, et al.* (File No. 3-4951), would be needed to provide service to customers of PSO if it were not part of the Central and South West System.

A statement of the fees, commissions and expenses to be incurred in

connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the isues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-32409 Filed 10-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17206; SR-NYSE-80-23]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 9, 1980.

In the matter of New York Stock Exchange, Inc., 55 Water Street, New York, New York 10041 (SR-NYSE-80-23).

On June 9, 1980, the New York Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would amend New York Stock Exchange Rule 325(e) to impose a minimum financial responsibility requirement on all members who execute orders on the floor of the Exchange and raise the amount of such financial requirement from $25,000 to $50,000.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17096, August 27, 1980) and by publication in the **Federal Register** (45 FR 58998, September 4, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-32408 Filed 10-16-80; 8:45 am]

BILLING CODE 8010-01-M

TREASURY DEPARTMENT

Treasury Small Business Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-253, notice is hereby given that a meeting of the Treasury Small Business Advisory Committee will be held on October 27 and 28, 1980, at the Main Treasury Building, 15th and Pennsylvania Avenue, NW Washington, D.C. and the Internal Revenue Service Building, 1111 Constitution Avenue, NW Washington, D.C.

The Committee was formed to provide a means of communication between the small business community and Treasury officials on numerous economic and financial issues, including capital formation, tax policy, tax administration and governmental regulations.

The meeting will be open to the public. A limited number of seats will be available on a first-come, first-served basis. In order to facilitate admittance, persons interested in attending are asked to call 566-3887 so that confirmation of space and access procedures can be provided.

Interested persons may file a written statement with the Committee before, during and after the meeting. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting. Persons interested in making oral statements are asked to call 566-3887 before 5:00 p.m. on October 24.

Minutes of the meeting will be available on request from the Treasury Small Business Advisory Committee thirty days after the meeting.

Inquires may be directed to William A. Anawaty, Executive Assistant to the Deputy Secretary, Department of the Treasury, Main Treasury Building, Room 3327, 15th and Pennsylvania Avenue, NW Washington, D.C. 20220, Telephone (202) 566-3887.

Dated: October 10, 1980.

Robert Carswell,

Deputy Secretary.

[FR Doc. 80-32329 Filed 10-16-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Outpatient Clinic and Renovation of Buildings 11A and 11B Veterans Administration Medical Center, West Side, Chicago, Ill.; No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impact that may occur as a result of the renovation of buildings 11A and 11B and construction of a new outpatient clinical addition at the Veterans Administration Medical Center (VAMC), West Side, Chicago, Illinois. The renovation will cover all 7 floors of buildings 11A & 11B totalling 289,000 gross square feet. The outpatient clinical addition will be a 68,500 gross square feet one story building across the front of existing 11A & 11B. The total project is estimated at 27 million dollars.

Development of this project would have impacts on the natural and human environments as it affects landscaping, energy use and parking. Additionally, construction noise, fumes, dust, and visual impacts will exist during construction.

Mitigating actions include: landscaping, control of erosion, dust, fumes and noise, and architectural and site design which will be compatible

with the surrounding University of Illinois Medical School construction and should stimulate the rejuvenation of the neighborhood.

Findings conclude that the proposed action will not cause an adverse effect on the human and physical environment and, therefore, does not require the preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed 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. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 3, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 32325 Filed 10-16-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 203
Friday, October 17, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-296 Amdt. 1, October 14, 1980]

CIVIL AERONAUTICS BOARD.

Notice of Addition of item to the October 17, 1980 Board Meeting.

TIME AND DATE: 9:30 a.m., October 17, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Docket 38629—U.S. People's Republic of China Service Proceeding (Instructions to staff) BIA.

STATUS: Open

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1914-80 Filed 10-15-80; 3:59 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, October 24, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1903-80 Filed 10-14-80; 4:10 pm]

BILLING CODE 6351-01-M

3

COUNCIL ON ENVIRONMENTAL QUALITY.

October 15, 1980.

TIME AND DATE: 11:30 a.m., October 23, 1980.

PLACE: Conference Room 722 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Status Report on Federal Agency Compliance With Executive Orders on Floodplain Management and Wetlands Protection.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III (202) 395-4616.

[S-1905-80 Filed 10-15-80; 10:28 am]

BILLING CODE 3125-01-M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 21, 1980.

PLACE: Commission conference room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 80-9-FOIA-001-IN, concerning a request for a copy of the work agreement between the agency and the Evansville Human Relations Division.
2. Freedom of Information Act Appeal No. 80-9-FOIA-002-NO, concerning a request for certain documents contained in two charge files.
3. Report on Pilot Program for the Investigation of Title VII Complaints of Discrimination in the Federal Sector.
4. Recommendation and Selection of Five (5) Litigation Support Centers (ABAR) Contracts.
5. Interpretations of the Employee Benefit Plans Under the Age Discrimination in Employment Act of 1967.
6. Proposed Revision of EEOC Order 960 to Reflect Delegation of Authority to the Office of Review and Appeals to Directly Issue Decisions Under Specified Circumstances.
7. Technical Amendments to Final Guidelines on Discrimination Because of Religion.
8. Approval for Final Commission Regulations on the Section 504 Rehabilitation Regulations.
9. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued October 14, 1980.

[S-1910-80 Filed 10-19-80; 2:33 pm]

BILLING CODE 6570-06-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 67825, October 14, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 15, 1980.

CHANGE IN MEETING: The following item has been added:

Item Number, Docket Number, and Company

M-9: RM80-75, Interim Rule Amending § 282.202(a) of the Commission's Regulations Under the Natural Gas Policy Act of 1978.

Kenneth F. Plumb,

Secretary.

[S-1906-80 Filed 10-15-80; 11:05 am]

BILLING CODE 6450-85-M

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 67829, Book 1 of 2, October 14, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 16, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGE IN MEETING: The bank board meeting previously scheduled for October 16, 1980, has been cancelled.

No. 407, October 15, 1980.

[S-1911-80 Filed 10-15-80; 3:44 pm]

BILLING CODE 6720-01-M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., October 23, 1980.

PLACE: Hearing room one, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 9902-12; Modification of the Euro Pacific Joint Service Agreement to extend its scope to include Hawaii.
2. Agreement No. 57-115: Modification of the Pacific Westbound Conference Agreement to provide a uniform interpretation of the procedural rules for taking independent action on intermodal rates and tariff rules.
3. Seatrain Pacific Services, S.A.—Application for special permission to file rates on immediate notice.
4. Midland Pacific Shipping Company, Inc.—Possible violations of the Shipping Act, 1916.
5. Antonio Lopez Quintana d.b.a. Tony Quintana Freight Forwarders—Possible violations of the Shipping Act, 1916.
6. Domestic Circular Letter No. 1-79—Petition of Sea-Land Service, Inc. for reconsideration of revocation.
7. Informal Docket No. 724(I): Cotton Import and Export Co. v. Sea-Land Service, Inc.—Petition of claimant for reconsideration.
8. Docket No. 78-6: Adel International Development, Inc. v. Puerto Rico Maritime Shipping Authority and Star Lines, Inc.—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1913-80 Filed 10-15-80; 3:59 pm]

BILLING CODE 6730-01-M

8

FEDERAL RESERVE SYSTEM.

(Committee on Employee Benefits of the Board of Governors).

TIME AND DATE: 11 a.m. Wednesday, October 22, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals involving internal personnel procedures relating to the System's employee benefits program, including the following: (a) acturial assumptions recommended by a consulting firm; and (b) supplemental allowance for Bank Plan retirees and their beneficiaries.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 14, 1980

Theodore E. Allison,

Secretary of the Board.

[S-1904-80 Filed 10-14-80; 4:20 pm]

BILLING CODE 6210-01-M

9

[NM-80-35]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 66541, October 7, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Wednesday, October 15, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The time of the meeting has been changed to 10 a.m., Wednesday, October 15, 1980. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report*—Assessment of Tank Car Structural Integrity in the Derailment Environment, and *Recommendations* to the Association of American Railroads, the Research and Special Programs Administration, and the Federal Railroad Administration.
2. *Safety Report*—The Status of General Aviation Crashworthiness, and *Recommendations* to the Federal Aviation Administration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

October 15, 1980.

[S-1909-80 Filed 10-15-80; 2:09 pm]

BILLING CODE 4910-58-M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of October 13, 1980.

PLACE: Commissioners conference room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, October 15:

10 a.m.

1. Briefing on NRC EEO Program (approximately 1 hour), (public meeting).

Thursday, October 16:

10 a.m.

1. Discussion of Unresolved Safety Issues (approximately 1½ hours, public meeting).
2. Affirmation Session (approximately 10 minutes, public meeting): (a) 10 CFR 50 Revision on Fracture Toughness; (b) Motion of North Coast Intervenor; (c) Order on Instructions to Board in Indian Point Proceeding (Tentative).
3. Discussion and Vote: (a) Order on Psychological Stress at TMI (approximately ½ hour, open/closed status to be determined).

2 p.m.

1. Briefing on Clarification of TMI Action Plan Requirements (approximately 1 hour, public meeting).
2. Discussion and Vote on Fire Protection Program (approximately 1½ hours, public meeting).

Friday, October 17:

10 a.m.

1. Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed—exemption 2-6).

1:30 p.m.

1. Briefing by IE on Report on NFS-Erwin (approximately 1½ hours, public meeting).

ADDITIONAL INFORMATION: The following meetings were not held: Monday, 10/6, Discussion of Potential Litigation and Other Responses to TMI-2 Developments; Thursday, 10/9, Discussion of Management-Organization, and affirmation of items a and b.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Walter Magee,

Office of the Secretary.

[S-1908-80 Filed 10-15-80; 11:55 am]

BILLING CODE 7590-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Closed meeting.

DATE AND TIME: October 15, 1980, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following item will be considered by the Commission at a closed meeting scheduled for Wednesday, October 15, 1980, at 2:30 p.m.

Litigation matter.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

October 14, 1980.

[S–1907–80 Filed 10–15–80; 11:30 am]

BILLING CODE 8010–01–M

12

FEDERAL DEPOSIT INSURANCE CORPORATION.

(Notice of Agency Meeting)

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 1:55 p.m. on Saturday, October 11, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Rochelle Bank and Trust Company, Rochelle, Illinois, which was closed by the Illinois Commissioner of Banks and Trust Companies on October 11, 1980; (2) accept the bid for the transaction submitted by United Bank of Rochelle, Rochelle, Illinois, a newly-chartered State bank; (3) approve a resulting application of United Bank of Rochelle for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in the closed bank; (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (5) appoint a liquidator for such of the assets of the closed bank as were not purchased by United Bank of Rochelle.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 14, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1912–80 Filed 10–15–80; 3:56 pm]

BILLING CODE 6714–01–M

13

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: Approximately 12 noon, Thursday, October 23, 1980, following a recess at the conclusion of an open meeting to be held earlier the same day.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report concerning consumer legislation and compliance examinations. (This item was previously announced for a meeting on Friday, October 17, 1980.)

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–1915–80 Filed 10–15–80; 4:29 pm]

BILLING CODE 6210–01–M

14

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Thursday, October 23, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request for reconsideration of the Board's position regarding the handling of reserve calculations for the survivor of mergers of member and nonmember banks.

2. Proposed policy statement regarding bank brokerage placement practices.

3. Proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) to add real estate and certain advisory services to the list of activities permissible for bank holding companies. (Proposed earlier for public comment; Docket No. R–0310.)

4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–1916–80 Filed 10–15–80; 4:28 pm]

BILLING CODE 6210–01–M

federal register

Friday
October 17, 1980

Part II

Department of Health and Human Services

Food and Drug Administration

Establishment of Monographs for Nailbiting and Thumbsucking Deterrent and Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 80N-0146]

Nailbiting and Thumbsucking Deterrent Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) nailbiting and thumbsucking deterrent drug products are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by January 14, 1981, and reply comments by February 16, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 44-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on March 12, 1979, a report on nailbiting and thumbsucking deterrent drug products from the Advisory Review Panel on OTC Miscellaneous External Drug Products.

Under § 330.10(a) (6) (21 CFR 330.10(a) (6)), the agency issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC nailbiting and thumbsucking deterrent drug products are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recongized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document as a formal proposal to obtain public comment before the agency reaches any decisions on the Panel's recommendations. This document represents the best scientific judgment of the Panel members but does not necessarily reflect the agency's position on any particular matter contained in it. After reviewing all comments submitted in response to this proposal, FDA will issue a tentative final regulation in the **Federal Register** to establish a monograph for OTC nailbiting and thumbsucking deterrent drug products.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC nailbiting and thumbsucking deterrent drug products submitted for consideration by the Advisory Review Panel. All the submitted information will be put on public display at the Hearing Clerk's Office, Food and Drug Administration, after (November 17, 1980), except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301 (j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (monograph conditions), be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

2. That the conditions excluded from the monograph, either because they would cause the drug to be not generally recognized as safe and effective or to be misbranded or because the available data are insufficient to support the inclusion of such conditions in the monograph (nonmonograph conditions), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the **Federal Register,** regardless of whether further testing is undertaken to justify their future use.

FDA published in the **Federal Register** of May 13, 1980 (45 FR 31422) its proposal to revise the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy,* 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug regulations (21 CFR 330.10) are unlawful to the extent that they authorize the marketing of Category III drugs after a final monograph. Accordingly, the proposed regulations delete this provision and provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (45 FR 31422).

Although it was not required to do so under *Cutler,* FDA has also decided to stop using the terms "Category I," "Category II," "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). Any OTC drug product containing a "nonmonograph condition" will be subject to regulatory action after the establishment of a final monograph. This document, however, retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, requests for data and information on all active ingredients used in OTC miscellaneous external drug products were issued in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179).

The Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of those products:

William E. Lotterhos, M.D., Chairman
Rose Dagirmanjian, Ph. D.
Vincent J. Derbes, M.D. (resigned July 1976)
George C. Cypress, M.D. (resigned November 1978)
Yelva L. Lynfield, M.D. (appointed October 1977)
Harry E. Morton, Sc. D.
Marianne N. O'Donoghue, M.D.
Chester L. Rossi, D.P.M.

J. Robert Hewson, M.D. (appointed September 1978)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Marvin M. Lipman, M.D., of Consumers Union served as the consumer liaison. Gavin Hildick-Smith, M.D., served as industry liaison from January until August 1975, followed by Bruce Semple, M.D., until February 1978. Both were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and Fragrance Association, also served as an industry liaison since June 1975.

Two nonvoting consultants, Albert A. Belmonte, Ph. D., and Jon J. Tanja, R.Ph., M.S., have provided assistance to the Panel since February 1977.

The following FDA employees assisted the Panel: John M. Davitt served as Executive Secretary until August 1977, followed by Arthur Auer until September 1978, followed by John T. McElroy, J.D., Thomas D. DeCillis, R.Ph., served as Panel Administrator until April 1976, followed by Michael D. Kennedy until January 1978, followed by John T. McElroy, J.D., Joseph Hussion, R. Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D., until March 1978, followed by Thomas J. McGinnis, R.Ph.

The Advisory Review Panel on OTC Miscellaneous External Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for nailbiting and thumbsucking deterrent drug products in this document. The review of other categories of miscellaneous external drug products will be continued by the Panel, and its findings will be published periodically in future issues of the Federal Register.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topic in this document were held on: June 27 and 28, August 15 and 16, 1975; May 16 and 17, 1976; September 30, December 11 and 12, 1977; January 29 and 30, September 17 and 18, October 29 and 30, 1978; January 14 and 15, and March 11 and 12, 1979.

The minutes of the Panel meetings are on public display in the Hearing Clerk's Office (HFA–305), Food and Drug Administration (address above).

No person requested an opportunity to appear before the Panel to present information on nailbiting and thumbsucking deterrent drug products.

The Panel has thoroughly reviewed the literature, has listened to additional testimony from interested persons, and has considered all pertinent information submitted through March 12, 1979, in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations in § 330.10, the Panel reviewed OTC nailbiting and thumbsucking deterrent drug products with respect to the following three categories:

Category I. Conditions under which OTC nailbiting and thumbsucking deterrent drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC nailbiting and thumbsucking deterrent drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

I. Submission of Data and Information

In an attempt to make this review as extensive as possible and to aid manufacturers and other interested persons, the agency compiled a list of ingredients recognized, either through historical use or use in marketed products, as nailbiting and thumbsucking deterrent active ingredients. Three ingredients were identified as follows: denatonium benzoate, sucrose octaacetate, and isopropyl alcohol. Notices were published in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients or any other ingredients used in OTC nailbiting and thumbsucking deterrent drug products.

A. Submissions

Pursuant to the above notices, the following submissions were received:

Firms and marketed products.

Commerce Drug Co. Inc., Farmingdale, NY 11735—Don't.

Mentholatum Co., Buffalo, NY 14213—Stop 'n grow.

Purepac Pharmaceutical Co., Elizabeth, NJ 07207—Nailicure, Stop zit.

In addition, the following firms made related submissions.

International Research and Development Corp., Mattawan, MI 48232—Testing for Toxicity of Denatonium Benzoate.

Parke, Davis & Co., Detroit, MI 49071—Denatonium Benzoate (December 12, 1975), Denatonium Benzoate (April 11, 1977; Additional Data), Sucrose Octaacetate.

B. Ingredients Reviewed by the Panel

Labeled ingredients contained in marketed products submitted to the Panel.

Denatonium benzoate
Isopropyl alcohol
Sucrose octaacetate

C. Classification of Ingredients

1. *Active ingredients.*

Denatonium benzoate
Sucrose octaacetate

2. *Inactive ingredient.*

Isopropyl alcohol

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). All the information included in these volumes, except for those deletions which are made in accordance with confidentiality provisions as set forth in § 330.10(a)(2), will be put on public display after November 17, 1980, in the Hearing Clerk's Office (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Discussion

A. *Nailbiting.* Fingernail biting is an extremely common habit among young and old alike. Nailbiting occurs in 43 percent of preadolescent children, 25 percent of college students, and 10 percent of adults (Ref. 1).

The nail is a horny plate on the dorsal surface of the distal end of a finger or toe and is made of hard keratin. The nail is continuously produced by the matrix, which is visible as the white, half-moon (lunula) at the base of the nail and extends back under the skin of the posterior nail fold. Nailbiting (onychophagia) usually occurs at the tip of the nail resulting in short, irregular nails. The nail is often bitten back to a point of separation from the nail bed (the tissue under the portion of the nail which appears pink), and in severe cases, the nail bed bulges beyond the nail plate. As a result of the nailbiting, fine needlelike projections are left at the edge of the nail which cause splits and mild paronychia (inflammation involving folds of tissue surrounding the nail). When nails are bitten excessively, open wounds result making this area highly susceptible to infections.

Nails are very quick to reflect local stresses such as disease, emotional stresses, drugs, and mechanical trauma. These stresses can lead to thinning, splitting, furrowing, and laddering of the nail. Nails normally grow at the rate of

0.1 millimeter (mm) daily. Nailbiting doubles this rate (Ref. 2).

The psychology of nailbiting is still uncertain. Sometimes, nailbiting is an expression of discontent, pressure, or maladjustment (Ref. 3). It is most likely to occur in a stressful situation. In most cases, nailbiting is an unconscious habit and provides an outlet for oral gratification (Ref. 4). Many different treatments have been tried to prevent nailbiting. Some of these treatments include negative practice, operant procedures, and psychotherapy; none have been very successful (Ref. 1).

One of the primary methods of treating nailbiting is to make the patient aware of the nailbiting activity. The Habit Reversal Procedure uses the awareness technique (Ref. 1). Awareness, control motivation, and activities designed to compete with the habit were emphasized in a study using the Habit Reversal Procedure. In a 1-month study involving 13 patients who were chronic nailbiters, using this procedure, the nailbiting stopped in all cases by using the Habit Reversal Procedure (Ref. 1).

Nailbiting can be a source of embarrassment. Frequently habitual nailbiters, upon recognition of their unsightly and ragged nails, try some of the nailbiting deterrent drug products that are on the OTC market in hopes of breaking the habit. These products contain bitter substances which alert the nailbiter to the activity. The two substances which have been evaluated by the Panel are denatonium benzoate and sucrose octaacetate. They are commonly used as alcohol denaturants because they impart a bitter taste, thus making the alcohol unfit to drink. Deterring nailbiting is based on this same principle. Home remedies such as pepper are used in a similar fashion to deter nailbiting (Ref. 5). Since these products are intended for topical application to deter nailbiting and/or thumbsucking, they should not be taken internally. Accordingly, these products should be labeled, "For topical use only."

Denatonium benzoate and sucrose octaacetate are used in combination or alone with vehicles such as isopropyl alcohol or pharmaceutical-grade shellac. The finished drug product is painted on the nails, thumbs, or other fingers. Additionally, appropriate warning labels should accompany any product containing flammable vehicles.

Because ingredients in the finished product may be irritating to the corneal and conjunctival areas of the eye, the product should be kept away from the eyes (Ref. 6).

B. *Thumbsucking.* In several studies the reported incidence of thumbsucking has varied from 16 to 46 percent of the child population (Refs. 7, 8, and 9).

Sucking of thumbs and other fingers is a natural act in the newborn, sometimes beginning prior to birth (Ref. 10).

Thumbsucking usually stops spontaneously at about age four (Refs. 11 and 12). Although a variety of theories have been proposed, current thinking holds that it is an empty or simple habit, a result of learned behavior, and that finger suckers are not emotionally disturbed (Ref. 10).

There are numerous reports which show an association of thumbsucking and malocclusion (Refs. 13 through 16). Persistent thumbsucking may lead to the incomplete eruption of incisors. It also affects development of muscles of the lips, thus affecting swallowing. Arch and palate formation may be adversely affected, causing deviation of the nasal septum and mouthbreathing. A crossbite or other or other occlusal abnormalities may also develop. Thus, respiration, mastication, speech, and swallowing may be affected. The consensus is that if the habit persists beyond the age of four, it may lead to clinically significant problems, and should be treated.

Among the tactics advocated for curtailment of thumbsucking are orthodontic devices such as a palatal arch or palatal crib, mechanical thumb guards, ridicule or harangue by parents, drug therapy in the form of bitter substances applied to the thumb, and combinations of the above (Ref. 17).

The consensus at this time is that the thumbsucking habit can be lessened if not eliminated without emotional disturbances or other undesirable consequences such as temper tantrums (Ref. 18).

Because persistent thumbsucking is a relatively common condition that can result in clinically significant problems, some form of therapy is warranted. However, the Panel is of the opinion that thumbsucking or nailbiting is not a significant problem in children below the age of 4 years. Labeling for these drug products should be directed to use in persons aged 4 years and over.

References

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(2) Pillsbury, D. M., "A Manual of Dermatology," W. B. Saunders & Co., Philadelphia, pp. 17–21, 1971.

(3) Rook, A., D. S. Wilkinsin, and F. J. Ebling, "Textbook of Dermatology," 2d Ed., Blackwell Scientific Publications, Philadelphia, p. 1659, 1968.

(4) Sutton, R. L., Jr., "The Practitioner's Dermatology," Yorke Medical Books, New York, p. 221, 1962.

(5) OTC Volume 160020.

(6) OTC Volume 160010.

(7) Haryett, R. D., et al., "Chronic Thumb-Sucking: The Psychologic Effects and the Relative Effectiveness of Various Methods of Treatment," *American Journal of Orthodontics*, 53:569–585, 1967.

(8) Klackenberg, G., "Thumbsucking: Frequency and Etiology," *The Journal of Pediatrics*, 4:418–423, 1949.

(9) Zadik, D., N. Stern, and M. Litner, "Thumb- and Pacifier-Sucking Habits," *American Journal of Orthodontics*, 71:197–201, 1977.

(10) Fletcher, B. T., "Etiology of Fingersucking: Review of Literature," *Journal of Dentistry for Children*, July–August, pp. 293–298, 1975.

(11) Traisman, A. S., and H. S. Traisman, "Thumb- and Finger-Sucking: A Study of 2,650 Infants and Children," *The Journal of Pediatrics*, 52:566–572, 1958.

(12) Brenner, J. E., "Thumbsucking: Dental and Psychological Aspects," *New York State Dental Journal*, 40:78–80, 1974.

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(14) Johnson, L. R., "The Status of Thumb-sucking and Finger-sucking," *The Journal of the American Dental Association*, 26:1245–1254, 1939.

(15) Rhobotham, F. B., "Children's Dentistry in Relation to Orthodontia," *The Journal of the American Dental Association*, 20:865–870, 1933.

(16) Popovich, F., "The Incidence of Sucking Habits and Its Relationship to Occlusion in 3-Year-Old Children," Burlington Orthodontic Research Center, Progress Report Series No. 1, Division of Dental Research, University of Toronto, 1956.

(17) Jacobsen, A., "The Treatment of Thumbsucking, Part III," *The Journal of the International Association of Orthodontics*, 2:4–16, 1964.

(18) Ayer, W. A., and E. N. Gale, "Psychology and Thumbsucking," *The Journal of the American Dental Association*, 80:1335–1337, 1970.

III. Categorization of Data

A. Category I Conditions

These are conditions under which active ingredients used as nailbiting and thumbsucking deterrents are generally recognized as safe and effective and are not misbranded. The Panel recommends that Category I conditions be effective 30 days after the date of publication of the final monograph in the Federal Register.

1. *Category I ingredients.* The Panel concludes that none of the submitted active ingredients are generally recognized as safe and effective and are not misbranded as OTC nailbiting and thumbsucking deterrents.

2. *Category I labeling.* The Panel recommends the following labeling for Category I nailbiting and thumbsucking deterrent active ingredients.

a. *Indications.* (1) "For use as a nailbiting deterrent in persons aged 4 years and older."

(2) "For use as a thumbsucking deterrent in persons aged 4 years and older."

(3) "For use as a nailbiting and thumbsucking deterrent in persons aged 4 years and older."

b. *Warnings.* (1) "Avoid contact with eyes."

(2) "For topical use only."

(3) *For products containing flammable vehicles.* "Keep away from flame."

c. *Directions.* (1) "Apply to the nail after washing hands and at bedtime, or as directed by a physician."

(2) "Apply to the thumb after washing hands and at bedtime, or as directed by a physician."

(3) "Apply to the nail or thumb after washing hands and at bedtime, or as directed by a physician."

B. Category II Conditions

These are conditions under which active ingredients used as nailbiting and thumbsucking deterrents are not generally recognized as safe and effective or are misbranded. The Panel recommends that the Category II conditions be eliminated from OTC nailbiting and thumbsucking drug products effective 6 months after the date of publication of the final monograph in the **Federal Register.**

1. *Category II ingredients.* None.

2. *Category II labeling.* None.

C. Category III Conditions

These are conditions for which the available data are insufficient to permit final classification at this time. The Panel recommends completion of additional studies to support the movement of Category III conditions to Category I.

1. *Category III ingredients.*

Denatonium benzoate

Sucrose octaacetate

a. *Denatonium benzoate.* The Panel concludes that denatonium benzoate is safe when topically applied on children 4 years of age and over, but that there are insufficient data to show that it is effective for OTC use as a nailbiting and thumbsucking deterrent.

The chemical formula for denatonium benzoate is designated as benzyldiethyl[(2,6-xylylcarbamoyl) methyl]-ammonium benzoate (Ref. 1). It is a white, crystalline powder with an intensely bitter taste. This bitter taste has been utilized in denatured alcohol to signal that it is not intended for ingestion but rather for topical application and industrial usage. Denatonium benzoate has been added to a brand of lead paint to discourage children from biting and ingesting paint chips (Ref. 2).

(1) *Safety.* There have been limited studies to establish the safety of denatonium benzoate.

In a 2-year oral toxicity study, denatonium benzoate was administered by gavage to Charles River CD rats, in dosage levels of 1.6, 8, and 16 milligrams/kilogram (mg/kg) daily. Sixty-five male and 65 female rats were studied at each dosage level and a like number of male and female rats were in a control group. The rats were observed daily for signs of toxicity and for mortality; detailed observations were recorded weekly. Individual body weights and sex-group food consumptions were measured daily for the first 5 weeks of study and weekly thereafter. Hematological, biochemical, and urinalysis studies were conducted at 3, 6, 12, 18, and 24 months of the study. All rats received opthalmoscopic examinations during the control periods and at 3, 6, 12, 18, and 24 months of the study. The rats shows no ill effects at the maximum daily dose of 16 mg/kg of denatonium benzoate (Ref. 3). This amount would far exceed that used in various nailbiting and thumbsucking deterrent products.

The Litchfield and Wilcoxon (Ref. 4) method of calculation determined that the median lethal dose (LD_{50}) of denatonium benzoate is 820 mg/kg (95 percent confidence limits—569 to 1,179 mg/kg). The highest dose was 1,430 mg/kg, and toxic effects usually appeared within 30 minutes after administration. Deaths occurred within the first 24 hours.

In another oral toxicity study, it was found that the oral LD_{50} dose for adult male and female albino rats was 612 mg/kg with confidence levels of 558 to 671 mg/kg (Ref. 3).

Ninety neonatal albino rats, produced in the laboratory by mating the Charles River CD albino rats, were used in another study. Undifferentiated as to sex, these rats weighed from 5.7 to 9.6 grams (g). Following birth, each litter of newborn pups was allowed to remain with its respective mother throughout the course of the 14-day study. Each litter was reduced to 10 pups. The parental female and litter were maintained in plastic breeding cages containing ground corncob bedding and controlled temperature and humidity throughout the study period. The parental females had food and water available ad libitum.

Each of the neonatal rats used was administered the test compound (denatonium benzoate in distilled water) within the first 24 hours following parturition. Dosing was accomplished by means of a polyethylene catheter attached to a syringe.

The test compound was administered orally at dosage levels of 7.9, 12.5, 19.8, 31.5, 50.0, 79.4, 125, and 315 mg/kg. Ten neonates were used at each dosage levels. Volumes of 10 milliliters/kilogram (mL/kg) of body weight were administered at all dosage levels.

A control group of an additional 10 neonatal rats was administered volumes of 10 mL/kg distilled water.

The neonatal rats were observed for pharmacodynamic signs and mortality during the first 5 hours following oral intubation, again at 24 hours, and daily thereafter for a total of 14 days. Gross necropsy (cell death) examinations were conducted on animals that died during the study period.

Individual body weights were obtained just prior to compound administration and again 14 days after compound administration. After the 14-day observation period, all surviving neonatal rats were destroyed.

All 10 neonatal rats in the control group survived the 14-day observation period and appeared normal on the day of dosing, at 24 hours, and throughout the 14-day observation period.

All 10 neonatal rats in both the 7.9 and 12.5 mg/kg dosage level groups survived the 14-day observation period and appeared normal on the day of dosing, at 24 hours, and throughout the 14-day study period.

At the 19.8 mg/kg dosage level, 3 of 10 neonates were dead within 60 minutes following oral dosing. At the 31.5 mg/kg level, 7 of 10 neonates were dead within 5 hours following oral intubation. Two additional neonates at the 31.5 mg/kg dosage level group were found dead at 24 hours.

At the 50.0 mg/kg dosage level, one neonate was dead at 2 hours, five at 3 hours, one at 4 hours, and the remaining three neonates were found dead at 24 hours.

At the 79.4 mg/kg level, three neonates were dead at 2 hours, four at 3 hours, and the remaining three were dead at 4 hours.

At the 125 mg/kg level, one neonate was dead within 60 minutes, eight at 2 hours, and the remaining neonate was dead at 3 hours.

At the 315 mg/kg level, eight neonates were dead at 2 hours, and one each was dead at 3 hours and 4 hours.

Based on the results obtained, an LD_{50} for denatonium benzoate in neonatal rats was calculated to be 23 mg/kg with

confidence limits of 19 to 27 mg/kg (Ref. 5).

An irritation study was done on 90 volunteers for a 30-day period. They were instructed to paint their fingernails daily with a product containing 0.15 percent denatonium benzoate and 6 percent sucrose octaacetate. At 4-hour intervals the nails were licked to expose the mouth and tongue to the painted surface of the nail. Nails, mouth, and tongue were checked daily for any signs of irritation. No irritation or damage to the nails, mouth, or tongue was found when this product was applied to the nails and tested for 30 days (Ref. 4).

Patch tests using 5 percent solutions of denatonium benzoate were done on 6 patients, who were allergic to quaternary (four-ringed) chemical compounds. No irritation was seen (Ref. 4).

(2) *Effectiveness.* As part of the irritation study involving the 90 volunteers applying a combination of 0.15 percent denatonium benzoate and 6 percent sucrose octaacetate for 30 days, the nail growth of the 19 nail biters in the group of 90 volunteers was visually observed and graded to 1 of 4 criteria (Ref. 4). Results of the uncontrolled study are summarized in the following chart (Ref. 4):

Visual Nail Growth of 19 Nailbiters Applying a Combination of 0.15 Percent Denatonium Benzoate and 6 Percent Sucrose Octaacetate for 30 Days

Nail growth	Number	Percent
Good	12	63.1
Fair	3	15.8
Poor	1	5.3
No noticeable growth	3	15.8
	19	100.0

In an uncontrolled study for the treatment of nailbiting and thumbsucking, the effectiveness of two marketed denatonium benzoate (0.35 percent) products was tabulated. The results, taken from reply cards, indicated that 66 percent of the replies were positive and 34 percent of the replies claimed the product to be ineffective or partially effective. It was concluded by the manufacturer that this response showed the products to be effective (Ref. 6). It was noted that of the 165,000 bottles of 1 product that were sold from 1972 to 1973, only 192 requests for refunds were made. The manufacturer assumed that the rest of the consumers were pleased with the results received from the products.

One manufacturer stated that, owing to many factors, the consumer response method was a better indication of effectiveness than controlled studies (Ref. 6). Some of these factors include: (i) That the products are cosmetically oriented and that the effect of the principal ingredient is well recognized for its intended purpose of imparting a bitter taste which will make nailbiting and thumbsucking unpleasant.

(ii) The results of the consumer studies allow for much greater statistically significant data.

(iii) The difficulty in designing a meaningful, controlled study plus the unavailability of a patient population to participate in such a study renders the consumer response method more desirable (Ref. 6).

(3) *Proposed dosage.* Adult and children 4 years of age and older: Topical dosage is the preparation containing 0.35 percent denatonium benzoate or less.

(4) *Labeling.* The Panel recommends Category I labeling for nailbiting and thumbsucking deterrent active ingredients. (See part II. paragraph B.1. above—Category I Labeling.)

(5) *Evaluation.* Data to demonstrate effectiveness as a nailbiting or thumbsucking deterrent will be required in accordance with the guidelines set forth below for testing thumbsucking and nailbiting deterrent ingredients. (See part II. paragraph C. below—Data Required for Evaluation.)

References

(1) "Merck Index," 9th Ed., Merck & Co., Rahway, NJ, p. 378, 1976.

(2) Challop, R. S., "Evaluation of an Acerbic Paint Containing Denatonium Benzoate for the Prevention of Paint Ingestion," Draft of unpublished study is included in OTC Volume 160020.

(3) OTC Volume 160228.

(4) OTC Volume 160020.

(5) OTC Volume 160295.

(6) OTC Volume 160054.

b. *Sucrose octaacetate.*

The Panel concludes that sucrose octaacetate is safe, but there are insufficient data to establish general recognition of effectiveness for use as an OTC nailbiting and thumbsucking deterrent.

Sucrose octaacetate is used as a denaturant for alcohol (Ref. 1). It is prepared by subjecting sucrose to exhaustive acetylation by reaction with acetic anhydride in the presence of a condensing agent such as pyridine (Ref. 2). Sucrose octaacetate is a white, practically odorless powder with an intensely bitter taste. It is hygroscopic (has the ability to take on and retain water readily) and has a melting point not lower than 78° C (Ref. 1).

Sucrose octaacetate has the chemical formula, $C_{28}H_{38}O_{19}$, and a molecular weight of 678.60 (Ref. 1). It is very soluble in methanol and chloroform, soluble in alcohol and ether, and very slightly soluble in water. Sucrose octaacetate has been used as a repellent for food sources for birds (Ref. 3). It has been used as a means of determining diet selection in free-choice situations for rats (Ref. 4). Studies of these uses revealed an initial success by producing aversion to food containing the sucrose octaacetate. However, a fast recovery was made followed by actual consumption of the diet containing the sucrose octaacetate. The rate of recovery, or consumption of the sucrose octaacetate supplemental diet, appeared to be influenced by the diet alternatives presented to the animals.

A study by Warren and Pfaffman (Ref. 5) showed no known toxic properties associated with sucrose octaacetate. Because a 0.06 percent concentration renders sugar inedible, the belief is that vomiting or gastric irritation would occur long before a toxic dose could be ingested (Ref. 6).

The Panel received a submission for a product containing sucrose octaacetate for use as a nailbiting and thumbsucking deterrent (Ref. 7). Additionally, a submission was received for a product containing sucrose octaacetate plus denatonium benzoate for use as a nailbiting deterrent (Ref. 8).

(1) *Safety.* In a study done by Linegar (Ref. 9), the minimum lethal dose of sucrose octaacetate could not be determined; 25 to 45 g did not kill any of the animals. No detectable pathological lesions of the kidney, spleen, or stomach could be determined after feeding the drug in the diet to rats and administering the drug orally to rabbits over a 3-month period (Ref. 9). The Panel concludes that sucrose octaacetate is safe in concentrations up to and including 6 percent.

(2) *Effectiveness.* There are insufficient data (controlled studies) to adequately judge the effectiveness of sucrose octaacetate as a nailbiting and thumbsucking deterrent.

(3) *Proposed dosage.* Adults and children 4 years of age and older: Topical dosage is the preparation containing 6 percent sucrose octaacetate or less.

(4) *Labeling.* The Panel recommends Category I labeling for nailbiting and thumbsucking deterrent active ingredients. (See part II. paragraph B.1. above—Category I Labeling.)

(5) *Evaluation.* Data to demonstrate effectiveness as a nailbiting or thumbsucking deterrent will be required in accordance with the guidelines set forth below for testing nailbiting and thumbsucking deterrent ingredients. (See part II. paragraph C. below—Data Required for Evaluation.)

References

(1) "The National Formulary," 14th Ed., American Pharmaceutical Association, Washington, DC, p. 838, 1975.

(2) "Remington's Pharmaceutical Sciences," 15th Ed., Mack Publishing Co., Easton, PA, p. 1267, 1975.

(3) Rogers, J. G., "Responses of Caged Red-Winged Blackbirds to Two Types of Repellents," *Journal of Wildlife Management*, 38:418–423, 1974.

(4) Naim, M., M. R. Kare, and D. E. Ingle, "Sensory Factors Which Affect the Acceptance of Raw and Heated Defatted Soybeans by Rats," *The Journal of Nutrition*, 107:1653–1658, 1977.

(5) Warren, R. P., and C. Pfaffmann, "Early Experience and Taste Aversion," *Journal of Comparative Physiology and Psychology*, 52:263–266, 1959.

(6) Arena, J. M., "Poisoning. Toxicology-Symptoms-Treatments," 2d Ed., Charles C. Thomas, Springfield, IL, p. 165, 1974.

(7) OTC Volume 160010.

(8) OTC Volume 160020.

(9) Linegar, C. R., "Acute and Chronic Studies on Sucrose Octa Acetate by the Oral Method," *in* "Bulletin of the National Formulary Committee," 11:59–63, 1943.

2. *Category III labeling.* None.

D. Data Required for Evaluation

The Panel considers the guidelines recommended in this document for the studies required to bring a Category III ingredient into Category I to be in agreement with the present state of the art and does not intend to preclude the use of any advances or improved methodology in the future.

A double-blind study, using the vehicle as a control, in a patient population of nailbiters as well as thumbsuckers is needed.

1. *Interpretation of data.* The Panel requires investigators to develop methods for human experimentation and to design studies which are well-controlled and safe. Data produced from these studies should be statistically significant and reproducible.

2. *Effectiveness.* Evidence of drug effectiveness, based on the results of two independent investigators or laboratories, is required from a minimum of two well-controlled studies.

All data, both favorable and unfavorable, must be submitted to FDA.

3. *Completion of studies.* Because the Panel is unable to recommend the precise protocols for such investigations at this time, 2 years will be allowed to develop the methodology and conduct studies for nailbiting and thumbsucking deterrent drug products in human subjects.

E. Combination Policy

The Panel concurs with the OTC drug review regulation (21 CFR 330.10(a)(4)(iv)) which states:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel recognizes the combination of denatonium benzoate and sucrose octaacetate as a Category III combination because the perception of a bitter taste may vary from person to person and from ingredient to ingredient.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding to Part 358, new Subpart C, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart C—Nailbiting and Thumbsucking Deterrent Drug Products

Sec.

358.201 Scope.
358.203 Definitions.
358.210 Nailbiting and thumbsucking deterrent active ingredients [Reserved].
358.250 Labeling of nailbiting and thumbsucking deterrent drug products.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart C—Nailbiting and Thumbsucking Deterrent Drug Products

§ 358.201 Scope.

(a) An over-the-counter nailbiting and thumbsucking deterrent drug product in a form suitable for topical application is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.203 Definitions.

(a) Nailbiting is the habitual biting of the fingernails.

(b) Thumbsucking is the habitual sucking of a thumb.

§ 358.210 Nailbiting and thumbsucking deterrent active ingredients [Reserved].

§ 358.250 Labeling of nailbiting and thumbsucking deterrent drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "nailbiting deterrent," "thumbsucking deterrent," or "nailbiting-thumbsucking deterrent."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one of the following phrases: (1) "For use as a nailbiting deterrent in person aged 4 years and older."

(2) "For use as a thumbsucking deterrent in persons aged 4 years and older."

(3) "For use as a nailbiting and thumbsucking deterrent in persons aged 4 years and older."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For product containing any ingredient identified in 358.210.*

(i) "Avoid contact with eyes."

(ii) "For topical use only."

(2) *For products containing flammable vehicles.* "Keep away from flame."

(d) *Directions.* The labeling of the product contains one of the following directions under the heading "Directions," followed by "or as directed by a physician."

(1) "Apply to the nail after washing hands and at bedtime."

(2) "Apply to the thumb after washing hands and at bedtime."

(3) "Apply to the nail or thumb after washing hands and at bedtime."

Interested persons are invited to submit their comments in writing

(preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before January 14, 1981. Comments should be addressed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replaying to comments may also be submitted on or before February 16, 1981. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–31958 Filed 10–15–80; 8:45 am]

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21 CFR Part 358

[Docket No. 80–0348]

Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) ingrown toenail relief drug products are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by January 14, 1981, and reply comments by February 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: In accordance with part 330 (21 CFR part 330), FDA received on April 21, 1980 a report on ingrown toenail relief drug products from the Advisory Review Panel on OTC Miscellaneous External Drug Products.

Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the agency issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC ingrown toenail relief drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel detemined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's diliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document as a formal proposal to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members but does not necessarily reflect the agency's position on any particular matter contained in it. After reviewing all comments submitted in respose to this proposal, FDA will issue a tentative final regulation in the **Federal Register** to establish a monograph for OTC ingrown toenail relief drug products.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC ingrown toenail relief drug products submitted for consideration by the Advisory Review Panel. All the submitted information will be put on public display at the Hearing Clerk's Office, Food and Drug Administration, after November 17, 1980, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD–510) (address above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (monograph conditions), be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

2. That the conditions excluded from the monograph, either because they would cause the drug to be not generally recognized as safe and effective or to be misbranded or because the available data are insufficient to support the inclusion of such conditions in the monograph (nonmonograph conditions), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the **Federal Register,** regardless of whether further testing is undertaken to justify their future use.

FDA published in the **Federal Register** of May 13, 1980 (45 FR 31422) its proposal to revise the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy,* 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug regulations (21 CFR 330.10) are unlawful to the extent that they authorize the marketing of Category III drugs after a final monograph. Accordingly, the proposed regulations delete this provision and provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (45 FR 31422).

Although it was not required to do so under *Cutler,* FDA has also decided to stop using the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). Any OTC drug product containing a "nonmonograph condition" will be subject to regulatory action after the establishment of a final monograph. This document, however, retains the concepts of Categories I, II, and III because that was the framework in

which the Panel conducted its evaluation of the data.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, requests for data and information on all active ingredients used in OTC miscellaneous external drug products were issued in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179).

The Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of those products:

William E. Lotterhos, M.D., Chairman.
Rose Dagirmanjian, Ph. D.
Vincent J. Derbes, M.D. (resigned July 1976).
George C. Cypress, M.D. (resigned November 1978).
Yelva L. Lynfield, M.D. (appointed October 1977).
Harry E. Morton, Sc. D.
Marianne N. O'Donoghue, M.D.
Chester L. Rossi, D.P.M.
J. Robert Hewson, M.D. (appointed September 1978).

Representatives of consumer and industry interests served as nonvoting members of the Panel. Marvin M. Lipman, M.D., of Consumers Union served as the consumer liaison. Gavin Hildick-Smith, M.D., served as industry liaison from January until August 1975, followed by Bruce Semple, M.D., until February 1978. Both were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and Fragrance Association, also served as an industry liaison since June 1975.

Two nonvoting consultants, Albert A. Belmonte, Ph. D., and Jon J. Tanja, R.Ph., M.S., have provided assistance to the Panel since February 1977.

The following FDA employees assisted the Panel: John M. Davitt served as Executive Secretary until August 1977, followed by Arthur Auer until September 1978, followed by John T. McElroy, J.D., Thomas D. DeCillis, R.Ph., served as Panel Administrator until April 1976, followed by Michael D. Kennedy until January 1978, followed by John T. McElroy, J.D., Joseph Hussion, R.Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D., until March 1978, followed by Thomas J. McGinnis, R.Ph.

The Advisory Review Panel on OTC Miscellaneous External Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for ingrown toenail relief drug products in this document. The review of other categories of miscellaneous external drug products will be continued by the Panel, and its findings will be published periodically in future issues of the **Federal Register**.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topic in this document were held on: May 16 and 17, 1976; August 5 and 6, September 30, October 1, December 11 and 12, 1977; April 16 and 17, June 11 and 12, May 18 and 19, August 3 and 4, September 28 and 29, October 28 and 29, and December 9 and 10, 1979; January 27 and 28, March 7 and 8, and April 20 and 21, 1980.

The minutes of the Panel meetings are on public display in the Hearing Clerk's Office (HFA-305), Food and Drug Administration (address above).

The following individuals were given an opportunity to appear before the Panel, either at their own request or at the request of the Panel, to express their views on ingrown toenail relief drug products:

Barry Brooks, J.D.
Joel Hertz, Ph. D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent information submitted through April 21, 1980 in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations in § 330.10, the Panel reviewed OTC ingrown toenail relief drug products with respect to the following three categories:

Category I. Conditions under which OTC ingrown toenail relief drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC ingrown toenail relief drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

I. Submission of Data and Information

In an attempt to make this review as extensive as possible and to aid manufacturers and other interested persons, the agency compiled a list of ingredients recognized, either through historical use or use in marketed products, as ingrown toenail relief active ingredients. Six ingredients were identified as follows: benzocaine, dibucaine, isopropyl alcohol, para-chloro-metaxylenol, sodium sulfide, and tannic acid. Notices were published in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients or any other ingredients used in OTC ingrown toenail relief drug products.

A. Submissions

Pursuant to the above notices, the following submissions were received:

Firms and Marketed Products

Scholl, Inc., Chicago, IL 60610—Onixol.
Whitehall Laboratories, Inc., New York, NY 10017—Outgro.

B. Ingredients Reviewed by the Panel

1. *Labeled ingredients contained in marketed products submitted to the Panel.*

Chlorobutanol
Isopropyl alcohol
Sodium sulfide
Tannic acid

2. *Other ingredients reviewed by the Panel.*

Benzocaine
Dibucaine
Para-chloro-metaxylenol
Triethanolamine
Urea

C. Classification of Ingredients

1. *Active ingredients.*

Sodium sulfide
Tannic acid

2. *Inactive ingredients.*

Isopropyl alcohol
Triethanolamine

3. *Ingredients reviewed by other Panels.* The following ingredients have previously been classified by the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products in the **Federal Register** of December 4, 1979 (44 FR 69768).

Benzocaine
Chlorobutanol
Dibucaine

4. *Other ingredients.* The Panel was not able to locate nor is it aware of data demonstrating the safety and

effectiveness of the following ingredients when used as OTC ingrown toenail relief active ingredients. The Panel, therefore, classifies these ingredients as Category II for this use, and they will not be discussed further in this document.

Chloroxylenol (para-chloro-metaxylenol)
Urea

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). All the information included in these volumes, except for those deletions which are made in accordance with confidentiality provisions as set forth in § 330.10(a)(2), will be put on public display after November 17, 1980, in the Hearing Clerk's Office (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rochville, MD 20857.

II. General Discussion

Nails serve as a means of protection for the upper ends of the toes. The flattened, expanded, free end of the nail protects the softer tissue of the end of the toe. The ingrown toenail (onychocryptosis) is a condition in which the side of the nail becomes imbedded in the surrounding soft tissue of the toe and causes pain. Secondary complications that can arise from the ingrown toenail condition are simple inflammation, swelling, ulceration, cellulitis (wide-spread inflammation of tissue), granulation tissue (rounded masses), infection, lymphangitis (red streaks on foot and leg), and septicemia (blood poisoning).

Grinnell (Ref. 1) describes the term ingrown toenail as a misnomer, because the nail never grows into the flesh but instead becomes imbedded. The correct method of cutting the toenail to prevent an ingrown toenail is to cut the nail straight across without tapering the corners in any way. The cause of most ingrown toenail conditions is incorrect cutting of the toenail but may also result from injury to the matrix or from hereditary tendencies. Acute symptoms of an ingrown toenail do not necessarily develop immediately after incorrect cutting; usually several days elapse before irritation becomes evident. Short and tight hosiery or tight shoes can also cause ingrown toenail, since improper footwear can force the lateral edge of the nail into the softer tissues by direct pressure. Tight bed covers, creating pressure of the soft skin tissue against the nails, can cause bed-ridden patients to have ingrown toenails (Ref. 1). Fungus infection of the nails (onychomycosis) may sometimes cause the nails to thicken and develop ragged edges. The movement of walking can cause these nail edges to irritate and penetrate the grooves on both sides of the toenail. In some families there is a tendency toward curling of the toenails; individuals in these families are predisposed to developing ingrown nails.

In treating a case of ingrown toenail in its early stages before the surrounding tissue of the nail has become enlarged, considerations are hardening of the nail groove and shrinking the soft tissue, so that there will be sufficient room for the nail to resume its normal position adjacent to the soft tissue. Prevention of infection is also a consideration at this time.

Reference

(1) Grinnel, R. N., "Ingrown Toe Nail," *Podiatry Quarterly*, 2:8–10, 1964.

General Labeling

The Panel has reviewed the general labeling requirements previously adopted by the Food and Drug Administration for OTC products (21 CFR 201.60, 201.61, and 201.62) and agrees that these general requirements are appropriate for labeling of products intended to relieve the symptoms of ingrown toenail.

1. *Indications and directions for use.* The Panel believes that the labeling of a product intended to relieve discomfort of ingrown toenail should state the nature and use of the product in language that is clear and easy for a lay user to understand and should provide the user with enough information for safe and effective use of the product.

No reference should be made or implied regarding the relief of symptoms unrelated to the condition that is an indication for use of the product.

2. *Warnings against unsafe use.* Because the ingredients in products intended to provide relief from discomfort of ingrown toenail might be toxic if absorbed through broken skin, of at least excessively irritating, the Panel recommends a label warning against application of these products to open sores. Labeling should also specify that these products are for external use only.

A statement of the maximum length of time the products should be used for self-treatment should be included in labeling, as well as a warning to consult a doctor if symptoms of infection, such as redness and swelling or discharge around the nail, should occur. The Panel believes that infection is not amenable to self-treatment, that self-treatment of infection might in fact permit it to progress to a serious stage, and that, if signs of infection appear, a doctor should be consulted immediately.

The Panel is also concerned about the use of these products by diabetics and persons having impaired circulation to the feet. These individuals are susceptible to infection and can have numbing of sensation in the feet which might mask the pain of an infected ingrown toenail. The Panel therefore recommends that the labeling of products intended to provide relief from the discomfort of ingrown toenail contain a warning to diabetics and persons having circulatory impairment to see a doctor for treatment of this condition.

III. Categorization of Data

A. Category I Conditions

These are conditions under which active ingredients used for ingrown toenail relief are generally recognized as safe and effective and are not misbranded. The Panel recommends that Category I conditions be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

1. *Category I ingredients.* None.

2. *Category I labeling.* The Panel recommends the following labeling for Category I drug products to relieve symptoms of ingrown toenail.

a. *Indications.* "For temporary relief of discomfort from ingrown toenails."

b. *Warnings.* (1) "For external use only."

(2) "Do not use this product for more than 7 days. Consult a doctor if no improvement is seen after 7 days."

(3) "If you have diabetes or circulatory impairment, see a doctor for treatment of ingrown toenail."

(4) "Do not apply this product to open sores. If redness and swelling of your toe increases, or if a discharge is present around the nail, stop using this product and see your doctor."

c. *Directions.* "Cleanse affected toes thoroughly. Place a small piece of cotton in the nail groove (the side of the nail where the pain is) and wet cotton thoroughly with the solution. Repeat several times daily until nail discomfort is relieved, but do not use for more than 7 days."

B. Category II Conditions

These are conditions under which active ingredients used for ingrown toenail relief are not generally recognized as safe and effective or are misbranded. The Panel recommends that the Category II conditions be

eliminated from OTC ingrown toenail relief drug products effective 6 months after the date of publication of the final monograph in the Federal Register.

1. *Category II ingredients.* See part I. paragraph C.4. above—Other ingredients.

2. *Category II labeling.* The Panel has placed in Category II the following labeling claim: "For fast pain relief."

C. Category III Conditions

These are conditions for which available data are insufficient to permit final classification at this time.

1. *Category III ingredients.*

Sodium sulfide
Tannic acid

a. *Sodium sulfide.* The rationale for the use of sodium sulfide in treating ingrown toenail discomfort is that this ingredient softens the keratin in the nail and the calloused skin surrounding the nail, thereby providing relief from pressure and pain caused by contact of the imbedded nail with the skin.

The Panel concludes that sodium sulfide is safe for this use as applied according to the dosage and directions specified below, but there are insufficient data available to determine its effectiveness.

(1) *Safety.* Sodium sulfide has been shown to have an intraperitoneal lethal dose (LD_{50}) in mice of 53 milligrams per kilogram (mg/kg) (Ref. 1). A marketed OTC product containing 1 percent sodium sulfide has been subjected to acute toxicity studies in young albino rats and the acute oral LD_{50} was determined to be 25.5 grams per kilogram (G/KG) (ref. 1). The oral LD_{50} for a 70-gram human is 50 to 500 MG/KG (ref. 2).

Necropsy revealed gastrointestinal tract hemorrhaging, pale livers, pale kidneys, and mottled lungs. No gross pathologic alterations were noted among any of the animals sacrificed at the end of the 14-day observation period. Calculations based on results of this study show that a 70-kg human would need to consume more than 1 quart of a 1-percent sodium sulfide preparation to achieve a lethal dose.

In assessing the irritancy of sodium sulfide, a 1-percent preparation was tested for eye irritation in young albino rabbits. The preparation was classified as minimally irritating based on irritation and damage to the cornea, iris, and conjuntiva (Ref. 2).

(2) *Effectiveness.* Nail keratin is very similar in structure and composition to hair keratin (Ref. 3), and chemicals that soften hair keratin may be useful in softening nail keratin. Sodiium sulfide was used as a hair depilatory as early as 1893, and this ingredient is the basis of most liquid depilatories (Refs. 1 and 4).

A solution of 1 percent sodium sulfide in a water and emollient vehicle was evaluated for effectiveness as a nail softener in a double-blind study conducted on 100 subjects with ingrown toenail problems. Fifty subjects were treated with the 1-percent sodium sulfide preparation, and 50 subjects were treated with the vehicle alone as a control. Initial treatment with the test and control solutions was conducted by clinicians who were directed to cleanse each affected toe thoroughly and place a small piece of cotton in the nail groove. The cotton was then saturated with the respective solutions. Subsequent treatment was done by the subjects according to directions from the clinicians, and treatments were repeated three times per day for a maximum of 7 days unless pain was relieved earlier. The subjects returned for examination on the third and seventh days of the study.

According to the researchers conducing the study, moderate to complete relief of pain and tenderness due to ingrown toenails was noted within 3 to 7 days with the use of the sodium sulfide preparation, while little or no relief of pain was noted with the vehicle alone (Ref. 2).

However, careful analysis of this study reveals several problems. Subjects were to be placed by each investigator into respective groups in equal numbers, according to age, sex, and duration and severity of the pain. This protocol was not followed, and the randomization of patient population and assignment of treatment was defective. Although the protocol specified a double-blind study, the actual test conditions did not meet double-blind test conditions. The subject report form containing the rating systems to be used by the clinicians was revised by several investigators. Thus comparisons and statistical treatment of the results could not be done accurately.

A total of 10 investigators were to be utilized in the study. Two investigators, however, did not conduct any studies, while a third investigator reported data, but no background information or credentials were submitted for him. One subject-report form had an investigator's signature which differed from all the others he had signed.

Thus, the Panel has concluded that, in order to establish the effectiveness of sodium sulfide as an ingrown toenail relief softener, it is necessary for the results of this study to be corroborated, either by additional study or by repetition of this study using a similar protocol.

(3) *Proposed dosage.* Topical dosage is a 1-percent solution of sodium sulfide in a suitable vehicle.

(4) *Labeling.* The Panel recommends Category I labeling for active ingredients to relieve the symptoms of ingrown toenail. (See part III. paragraph A.2. above—Category I labeling.)

References

(1) OTC Volume 160100.

(2) OTC Volume 160280.

(3) Baden, H. P., "The Physical Properties of Nail," *The Journal of Investigative Dermatology*, 55:115–122, 1970.

(4) Wells, F. V., and I. Lubowe, "Cosmetics and the Skin," Reinhold Publishing Corp., New York, pp. 363–364, 1964.

b. *Tannic acid.* Tannic acid is a tannin usually obtained from nutgalls, which are excessive growths formed on young twigs of certain oak trees as a result of development of eggs deposited by the female gall fly. Tannic acid occurs as an amorphous powder, glistening scales, or spongy masses, yellowish-white to light brown in color. Tannic acid has a faint, characteristic odor and strong astringent taste; it is soluble in water and alcohol and almost insoluble in chloroform and ether (Ref. 1).

Tannic acid is classified as an astringent, that is, a substance that precipitates protein and thereby has such actions as hardening skin, forming a protective coating over mucous membranes, checking excessive secretion, and stopping superficial hemorrhage. It has been used therapeutically for all these actions (Ref. 1).

The claimed rationale for use of tannic acid in treating ingrown toenail is that it hardens the skin surrounding the imbedded nail and shrinks the soft tissue adjacent to the nail, making sufficient room for the nail to resume its normal position adjacent to the soft tissue.

(1) *Safety.* Tannic acid was formerly used orally for the symptomatic treatment of diarrhea, topically for the management of extensive burns, and rectally for the relief of various rectal disorders (Ref. 2). However, these applications are now practically obsolete because sufficient tannic acid may be absorbed from the gastrointestinal tract, denuded surfaces, and mucous membranes to cause severe damage to the liver (Refs. 3 through 5). In 1942, Wells et al. (Ref. 3) reported that treatment of severe burns with tannic acid resulted in toxic hepatitis within 36 hours.

The Panel notes that the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment

Drug Products, in reviewing tannic acid as a skin protectant and burn treatment agent, concluded that tannic acid has little action on intact skin (43 FR 34644). This view supports the safety of tannic acid when applied to a small area of intact skin, such as that surrounding an ingrown toenail, and the Advisory Review Panel on OTC Miscellaneous External Drug Products concludes that tannic acid is safe when so applied in concentrations up to 25 percent.

(2) *Effectiveness.* The Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products noted that tannic acid has little action on intact skin. This casts doubt on the effectiveness of tannic acid when used to harden the skin and shrink the tissue surrounding an ingrown toenail.

The Advisory Review Panel on OTC Miscellaneous External Drug Products is aware of several studies dealing with tannic acid. One uncontrolled study by Grinnell (Ref. 6) deals with the effectiveness of tannic acid in treating ingrown toenail relief. He studied the effects of a product combining 25 percent tannic acid, 5 percent chlorobutanol, a topical anesthetic, and 69.25 percent isopropyl alcohol, an antiseptic, on 44 patients suffering from ingrown toenails. The patients were instructed to apply several drops of the medication in the crevice where the nail was imbedded in the flesh, to work the medication under the nail, let it dry thoroughly without rubbing it off, and to repeat this procedure several times a day. Forty of the 44 patients were professionally reevaluated 5 hours to 9 days after initial application of the medication. The other four patients telephoned in their own evaluations. According to Grinnell, the product proved to be an excellent aid in helping to restore the nail to its proper relationship to the soft tissue of the toe, and 94 percent of the patients who experienced swelling in connection with an ingrown toenail obtained complete relief from the swelling.

The Panel notes that it is not clear whether the swelling in these instances resulted from infection at the ingrown toenail site. If infection was initially present, then relief from swelling would very likely be the result of the germicidal activity of the isopropyl alcohol rather than the tissue-shrinking and skin-hardening activity of the tannic acid.

Another study (Ref. 7) tested the epidermal hardening of several ingredients in a combination product by preparing five nonabraded sites on albino rabbits for exposure to each of the following solutions: (a) untreated control, (b) 5 percent chlorobutanol in isopropyl alcohol, (c) 25 percent tannic acid in isopropyl alcohol, (d) 25 percent tannic acid and 5 percent chlorobutanol in isopropyl alcohol, and (e) isopropyl alcohol. Each site was treated topically once daily for 3, 7, and 10 days. The study concluded that the combination of 25 percent tannic acid and 5 percent chlorobutanol in isopropyl alcohol resulted in the greater skin thickening observed. However, the Panel concludes that this skin thickening cannot be equated to a skin-hardening effect.

Further studies were undertaken to demonstrate skin hardening by (a) the measurement of the resistance of treated and untreated excised mouse skin to a sharp needle dropped from a measured distance above the skin, and (b) by determining the compressibility of treated and untreated excised mouse skin (Ref. 7). From the needle-pierce method it was concluded that the combination product, 25 percent tannic acid and 5 percent chlorobutanol in isopropyl alcohol, hardened or toughened the mouse skin as measured by resistance to needle penetration. From the compressibility method it was concluded, because treated mouse skin was less compressible than the untreated skin, that the hardness of mouse skin increased.

The Panel concludes that there is insufficient evidence to show that tannic acid alone is effective in hardening the skin and shrinking the soft tissue surrounding an ingrown toenail in humans. It is necessary for controlled studies to be done showing the effect of tannic acid alone on the intact skin and soft tissue surrounding an ingrown toenail.

(3) *Proposed dosage.* Topical dosage is tannic acid in concentrations up to 25 percent.

(4) *Labeling.* The Panel recommends Category I labeling for active ingredients to relieve the symptoms of ingrown toenail. (See part III. paragraph A.2 above—Category I labeling.)

References

(1) Osol, A., and R. Pratt, "The United States Dispensatory," 27th Ed., J. B. Lippincott Co., Philadelphia, p. 1140, 1973.

(2) Swinyard, E. A., "Surface-Acting Drugs," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, MacMillan Publishing Co., Inc., New York, p. 951, 1975.

(3) Wells, D. B., H. D. Humphrey, and J. J. Coll, "Relation of Tannic Acid to Liver Necrosis, Occurring in Burns," *New England Journal of Medicine*, 226:629–636, 1942.

(4) Barnes, J. M., and R. J. Rossiter, "Toxicity of Tannic Acid," *Lancet*, 2:218–222, 1943.

(5) Krezanoski, J. Z., "Tannic Acid: Chemistry, Analysis, and Toxicology," *Radiology*, 87:655–657, 1966.

(6) Grinnell, R. N., "Ingrown Toe Nail," *Podiatry Quarterly*, 2:8–10, 1964.

(7) OTC Volume 160384.

2. *Category III labeling.* None.

D. Combination Policy

The Panel was not aware of any product combining OTC ingredients that it reviewed for relief of the symptoms of ingrown toenail. A combination that can soften the nail and harden the nailbed would be rational. Any combination of ingredients reviewed in this document with ingredients from other therapeutic categories should meet the criteria outlined in § 330.10(a)(4)(iv) which states:

> An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

In addition to the regulation cited above, the Panel concurs with the FDA's general guidelines for OTC drug combination products referred to in the **Federal Register** of November 28, 1978 (43 FR 55466). These guidelines provide for combining ingredients from different therapeutic categories and are thus applicable to combinations of ingredients for relief of the symptoms of an ingrown toenail with ingredients from other therapeutic categories.

> Category I active ingredients from different therapeutic categories may be combined to treat different symptoms concurrently *only* if each ingredient is present within its established safe and effective dosage range and the combination meets the OTC combination policy in all other respects.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5,

and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding to Part 358, new Subpart E, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart D—[Reserved]

Subpart E—Ingrown Toenail Relief Drug Products

Sec.
358.401 Scope.
358.403 Definitions.
358.410 Ingrown toenail relief active ingredients. [Reserved]
358.450 Labeling of ingrown toenail relief drug products.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat 919 and 72 Stat 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart E—Ingrown Toenail Relief Drug Products

§ 358.401 Scope.

(a) An over-the-counter ingrown toenail relief drug product is a form suitable for topical application is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.403 Definitions.

Ingrown toenail relief drug product. A drug product applied to an ingrown toenail that will correct the condition either by softening the nail or by hardening the nail bed.

§ 358.410 Ingrown toenail relief active ingredients [Reserved].

§ 358.450 Labeling of ingrown toenail relief drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "ingrown toenail relief drug product."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase "for temporary relief of discomfort from ingrown toenails."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "For external use only."

(2) "Do not use this product for more than 7 days. Consult a doctor if no improvement is seen after 7 days."

(3) "If you have diabetes or circulatory impairment, see a doctor for treatment of ingrown toenail."

(4) "Do not apply this product to open sores. If redness and swelling of your toe increases, or if a discharge is present around the nail, stop using this product and see your doctor."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions," followed by "or as directed by a doctor": "Cleanse affected toes thoroughly. Place a small piece of cotton in the nail groove (the side of the nail where the pain is) and wet cotton thoroughly with the solution. Repeat several times daily until nail discomfort is relieved, but do not use for more than 7 days."

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before January 14, 1981. Comments should be addressed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before February 16, 1981. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–32153 Filed 10–15–80; 8:45 am]

BILLING CODE 4110–03–M

federal register

Friday
October 17, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decision

Puerto Rico: PR80–3063

Modification 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.

Alabama: AL79–1066	Apr. 13, 1979.
North Carolina:	
NC80–1024	Jan. 4, 1980.
NC80–1023	Jan. 4, 1980.
NC78–1037	Apr. 14, 1978.
NC80–1025	Jan. 4, 1980.
NC80–1026	Jan. 4, 1980.
NC78–1027	Mar. 24, 1978.
NC78–1036	Apr. 14, 1978.
NC78–1035	Apr. 14, 1978.
Oregon: OR80–5106	Feb. 9, 1980.
Vermont: VT80–2076	Sept. 5, 1980.
Wisconsin:	
WI80–2027	Apr. 18, 1980.
WI80–2040	May 30, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL77–1090 (AL80–1112)	July 8, 1977.
AL80–1030 (AL80–1112)	Jan. 4, 1980.
Kentucky:	
KY79–1135 (KY80–1106)	Oct. 19, 1979.
KY79–1137(KY80–1107)	Oct. 19, 1979.
KY79–1139 (KY80–1108)	Oct. 19, 1979.
South Carolina: SC79–1105 (SC80–1113)	July 6, 1979.
Washington: WA80–5107 (WA80–5136)	Mar. 7, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 10th Day of October 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: PUERTO RICO
COUNTY: ISLAND WIDE
DECISION NO. PR80-3063
DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning & Heating	3.75				
Carpenters	3.76				
Carpenter's Helpers	3.10				
Cement Masons	3.60				
Electricians	3.78				
Electrician's Helpers	3.30				
Elevator Mechanics	5.08				
Glaziers	4.00				
Ironworkers, Ornamental & Structural	3.37				
Ironworkers, Reinforcing	3.25				
Insulation Mechanic	4.05				
Laborers	3.10				
Mason Tenders	3.19				
Pipelayers	4.10				
Painters, Brush	3.25				
Painters, Spray	3.15				
Plasterers	3.91				
Plumbers	3.93				
Plumber's Helpers	3.25				
Sheet Metal Workers	3.50				
Truck Drivers	3.62				
Power Equipment Operators:					
Riggers	3.50				
Oilers	3.65				
Tractors	4.50				
Rollers	3.73				
Diggers	4.00				
Bulldozers	4.40				
Cranes	4.55				
Forklifts	4.25				
Graders	4.37				
Loaders	4.60				
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))					

Modification Page 1

DECISION NO. AL79-1066 - MOD. #8
(44 FR 22307 - April 13, 1979)
Madison County, Alabama

CHANGE:

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	11.33	.50	.55		.05
GROUP B	9.89	.50	.55		.05
GROUP C	9.07	.50	.55		.05

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NC80-1024 - MOD. #1 (45 FR 1368-January 4,1980) Edgecombe, Greene, Nash, Johnston, and Wilson Counties, North Carolina.					
CHANGE:					
Sprinkler Fitters	11.00	.85	1.20		.08
DECISION NO. NC80-1023 - MOD. #2 (45 FR 1372-January 4,1980) Carteret, Craven, Jones, Lenoir, Onslow, and Pamlico Counties, North Carolina.					
CHANGE:					
Sprinkler Fitters	11.00	.85	1.20		.08
DECISION NO. NC78-1037 - MOD. #3 (43 FR 16096-April 14, 1978) New Hanover County, North Carolina					
CHANGE:					
Sprinkler Fitters	11.00	.85	1.20		.08

Modification Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NC80-1025 - MOD. #1 (45 FR 1371 - January 4, 1980) Durham County, North Carolina					
CHANGE:					
Sprinkler Fitters	11.00	.85	1.20		.08
DECISION NO. NC80-1026 - MOD. #1 (45 FR 1368 - January 4, 1980) Cumberland County, North Carolina					
CHANGE:					
Sprinkler Fitters	11.00	.85	1.20		.08
DECISION NO. NC78-1027 - MOD. #4 (43 FR 12602 - March 24, 1978) Gaston, Lincoln, Union, and Mecklenburg Counties, North Carolina					
CHANGE:					
Sprinkler Fitters (Mecklenburg and Union Counties)	11.00	.85	1.20		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NC78-1036 - MOD. #3 (43 FR 16095 - April 14, 1978) Guilford County, North Carolina					
CHANGE:					
Sprinkler Fitters	11.00	.85	1.20		.08
DECISION NO. NC78-1035 - MOD. #3 (43 FR 16095 - April 14, 1978) Chatham, Harnett, Lee, and Moore Counties, North Carolina					
CHANGE:					
Sprinkler Fitters (Chatham and Lee Counties)	11.00	.85	1.20		.08

DECISION NO. OR80-5106 - Mod #3
(45 FR 8856 - February 9, 1980)
Statewide Oregon

CHANGE:
LINE CONSTRUCTION:

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$16.15	$17.40	$18.15	$18.90	$20.15
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	14.59	15.84	16.59	17.34	18.59
Group 3: Tree Trimmer	13.17	14.42	15.17	15.92	17.17
Group 4: Line Equipment Man	12.57	13.82	14.57	15.32	16.57
Group 5: Head Ground (Chipper), Head Groundman, Powderman, Jackhammer Man	10.99	12.24	12.99	13.74	14.99
Group 6: Groundman	10.32	11.57	12.32	15.07	14.30

FRINGE BENEFITS PAYMENTS:	GROUPS 1 to 3	GROUPS 4 to 6
Health and Welfare	$0.45	$0.45
Pension	3%+1.70	3%+1.10
Vacation	0.10	0.10
Apprenticeship Training	1/2%	1/2%

LABORERS:

Group	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$10.83	11.33	11.73	12.23	13.13	13.83
2	11.18	11.68	12.08	12.58	13.48	14.18
3	11.48	11.98	12.38	12.88	13.78	14.48
4	11.73	12.23	12.63	13.13	14.03	14.73

FRINGE BENFFITS PAYMENTS:	
Health & Welfare	$1.20
Pension	1.40
Vacation	1.00
Apprenticeship Training	.10

DECISION NO. OR80-5106 (Cont'd)

LABORERS GROUP DESCRIPTION

Group 1: General Laborer; Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Cat and Truck Loaders; Carpenter Tender; Changehouse Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking and moving Laborers; Drillers' Tenders; Dumpers, road oil crew; Dumpman (for grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, reference post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including steel forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weightman - Crusher (aggregate when used)

Group 2: Applicator (including Pot Tender for same) applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary, power spreader and similar types; Clean-up Nozzleman-Greencutter (concrete, rock, etc.); Concrete power Buggyman; Crusher Feeder; Demolition and wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite and Sand Blasting Post Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Ribbon Setter, head; Rip Rap Man, head, hand placed; Sand Blasting (wet); Stake Setter; Tunnel-Muckers; Brakemen; Concrete Crew; Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators; Air Tracks; Cat Drills; Wagon Drills; Rubber - mounted Drills and other similar typed; Concrete Saw Operator; Gunite Nozzleman; High Scalers; strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down or sloping and stripping); Laser Beam (pipe laying); Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzleman; Sandblasting (dry); Sewer (Pipe Layers); Sewer Timberman; Track Liners; Anchor Machines, Ballast Regulators, multiple Tampers, power Jacks; Tugger Operator; Tunnel Chuck Tenders; Nippers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powderman

DECISION NO. OR80-5106 (Cont'd)

TRUCK DRIVERS:

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$12.53	$13.03	$13.43	$13.93	$14.83	$15.53
2	12.58	13.08	13.48	13.98	14.88	15.58
3	12.63	13.13	13.53	14.03	14.93	15.63
4	12.68	13.18	13.58	14.08	14.98	15.68
5	12.73	13.23	13.63	14.13	15.03	15.73
6	12.83	13.33	13.73	14.23	15.13	15.83
7	12.93	13.43	13.83	14.33	15.23	15.93
8	13.03	13.53	13.93	14.43	15.33	16.03
9	13.13	13.63	14.03	14.53	15.43	16.13
10	13.30	13.80	14.20	14.70	15.60	16.30
11	13.40	13.90	14.30	14.80	15.70	16.40
12	13.50	14.00	14.40	14.90	15.80	16.50
13	13.60	14.10	14.50	15.00	15.90	16.60
14	13.70	14.20	14.60	15.10	16.00	16.70

FRINGE BENEFITS:

Health and Welfare	$0.93
Pension	1.19
Vacation	1.00
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VT80-2076 - MOD. #2 (45 FR 59078 - September 5, 1980) Chittenden County, Vermont					
Change:					
LABORERS	$ 6.60	.75	1.10		.10
DECISION NO. WI80-2027 - MOD. #2 (45 FR 26656 - April 18, 1980) Ashland, Bayfield, and Douglas, Wisconsin					
Change:					
Boilermakers	$13.87	1.375	1.10		.05
Laborers: General Laborers Ashland County Only	9.83	.55	.50		.05
Concrete Handling, and Carrying Reinforced Steel	9.88	.55	.50		.03
Mason Tenders, Power Tool Operators such as Jack Hammer, Vibrator, Air Spade, Fork Lift also Plaster Laborers	9.98	.55	.50		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI80-2040 - MOD. #1 (45 FR 36781 - May 30, 1980) Green and Rock Counties, Wisconsin					
Change:					
Asbestos Workers	$13.30	1.05	1.15	1.50	.14
Boilermakers	13.87	1.375	1.10		.05
Bricklayers	12.43	.85	.90		.05
Elevator Constructors: Northern Portion of Counties	12.75	1.195	.95	a+b	.035
Elevator Constructor Helper: Northern Portion of Counties	9.25	1.195	.95	a+b	.035
Ironworkers (all): Vic. Edgerton, Milton, Poolville & Evansville	12.31	1.25	1.00		.07
Roofers	14.92	.65			.03

SUPERSEDEAS DECISION

STATE: Alabama
COUNTY: See Below*
DECISION NUMBER: AL80-1112
DATE: Date of Publication
Supersedes Decisions Nos.: AL77-1090 dated July 8, 1977 in 42 FR 35509; AL80-1030 dated January 4, 1980 in 45 FR 1340.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories.

*Counties: Cullman, Jackson, Limestone, Morgan, Madison, and Marshall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$5.10				
Cement Masons	6.00				
Drywall Finishers	7.00				
Drywall Hangers	5.00				
Electricians	6.62				
Laborers	3.60				
Painters, brush	7.25				
Plumbers and Pipefitters	6.50				
Roofers	5.00				
Sheet Metal Workers	4.50				
Truck Drivers	3.60				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.20				
Bulldozer	5.13				
Front End Loader	5.77				
Tractor Operator	5.60				

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ALLEN, BALLARD, BUTLER, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LOGAN, LYON, MCRACKEN, MCLEAN, MARSHALL, MUHLENBERG, OHIO, SIMPSON, TODD, TRIGG, UNION WARREN, AND WEBSTER.
DECISION NUMBER: KY80-1106
DATE: DATE OF PUBLICATION
Supersedes Decision Number 79-1135, dated October 19, 1979, in 44 FR 60520
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.70	.45	.35		
CARPENTERS:					
Heavy Rate of Pay	11.50	.45	.30		.05
Highway Rate of Pay	10.90	.45	.30		.05
CEMENT MASONS	10.35	.90	.40		
ELECTRICIANS (OUTSIDE):					
Linemen	12.65	.55	13%		½ of 1%
Cable splicers	12.00	.55	13%		½ of 1%
IRONWORKERS	14.70	.55	1.05		.045
MILLWRIGHTS:					
Heavy Rate of Pay	12.25	.45	.30		.05
Highway Rate of Pay	11.65	.45	.30		.05
PAINTERS:					
Brush & Roller	10.05	.50			
Sandblast & Power Tools	10.50	.50			
BRIDGE WORK - Brush, Roller, Spray, & Sandblast	11.05	.50			
PILEDRIVERMEN:					
Heavy Rate of Pay	11.75	.45	.30		.05
Highway Rate of Pay	11.15	.45	.30		.05
PLUMBER & PIPEFITTERS	14.35	.75	1.00		.09

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.22	.40	.70		
GROUP 2	9.47	.40	.70		
GROUP 3	9.52	.40	.70		
GROUP 4	10.12	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping and seeding, planters & tree-trimmers, sign guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, flagmen, rip-rap & grouters, dredging laborers, right of way laborers, wrecking & demolition laborers, drill tender, & all hand digging and hand back filling.

GROUP 2 - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheel barrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & mortar mixers, pipe layers, joint maker, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, surface grinderman, hand operated grouter & grinder machine, operator & deckhand scow man, burner & welder.

GROUP 3 - Powderman and blasters, side rail setters - including rail paved ditches, tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tact driller (all types), grout pump operator.

GROUP 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), Caisson workers (free air).

POWER EQUIPMENT OPERATORS: HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$12.07	.50	1.00		.08
CLASS B	9.24	.50	1.00		.08
CLASS C	8.44	.50	1.00		.08
CLASS D	12.32	.50	1.00		.08

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge, engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B- All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or breakman, joint sealing machine, mechanic tender, Whirley oiler, trac-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill tender (truck mounted).

CLASS C - Bituminous distributor, cement gun conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill and caisson drill tender (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$10.72	.50	1.00		.0°
CLASS B	8.30	.50	1.00		.08
CLASS C	8.68	.50	1.00		.08
CLASS D	8.04	.50	1.00		.08

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator, (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, Tecal loader, tower cranes, (French German and other types), Hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B Air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock) tractor (50 HP or over), hull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic tender, whitley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributors, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Driver-single axle Dump. flat bed trucks-semi-trailer or pole trailer when used to pull building materials or Equipment-Dump truck Tandem Axle-Driver of Distributors - Drivers on mixed trucks (all types)	$10.15		a		
Driver-Euclid and other heavy earth moving equipment and Low Boy - Winch Truck and A-Frame truck when used in transporting materials & Ross Carrier - Fort Lift truck when used to transport Building materials-Driver on pavement breakers	10.16		a		
Truck Mechanic	10.08		a		
Truck Tender - Mobile Batch Truck Helper	9.80		a		
Greaser, Tire Changer, and Mechanic Helper	9.85		a		

WELDER: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a: Pension 46 dollars a week-applies to Employees who have been employed a minimum of (20) work days within any (90) consecutive day period for that employer

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: ADAIR, BARREN, BELL, BREATHITT, CASEY, CLAY, CLINTON, CUMBERLAND, ESTILL, FLOYD, GARRARD, GREEN, HARLAN, HART, JACKSON, JOHNSON, KNOTT, KNOX, LAWRENCE, LAUREL, LEE, LESLIE, LETCHER, LINCOLN, MCCREARY, MAGOFFIN, MARTIN, MENIFEE, METCALFE, MONROE, MORGAN, OWSLEY, PERRY, PIKE, POWELL, PULASKI, ROCKCASTLE, RUSSELL, TAYLOR, WAYNE, WHITLEY AND WOLFE.

DECISION Number: KY80-1107 DATE: DATE OF PUBLICATION

Supersedes Decision Number KY79-1137, dated October 19, 1979, in 44 FR 60523

DESCRIPTION OF WORK:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY PROJECTS:					
BRICKLAYERS	$10.40	.45	.45	.25	
CARPENTERS	9.90	.45	.45	.25	
CEMENT MASONS	9.75	.45	.45	.25	
ELECTRICIANS:					
Linemen	14.60	.70	3%		½ of 1%
Groundmen	10.95	.70	3%		½ of 1%
IRONWORKERS:					
Reinforcing	9.80	.45	.45	.25	
Structural	10.00	.45	.45	.25	
PAINTERS					
Guard Rail	10.60	.45	.45	.25	
Structural	11.60	.45	.45	.25	
PILEDRIVERMEN	9.55	.45	.45	.25	
PLUMBERS & PIPEFITTERS	14.75	.70	1.20		.05
SHEET METAL WORKERS	10.45	.45	.45	.25	
TRUCK DRIVERS:					
Truck tender	7.20	.45	.45	.25	
Driver - winch truck and A-frame truck when used in transporting materials	7.30	.45	.45	.25	
Driver - distributor, dump truck tandem axle, semi-trailer or pole trailer	8.40	.45	.45	.25	
Driver - mixer trucks (all types)	8.45	.45	.45	.25	
Truck mechanic	8.50	.45	.45	.25	
Driver - 3 tons & under, tire changer & mechanic tender	8.53	.45	.45	.25	
Driver - pavement breakers	8.55	.45	.45	.25	
Driver - over 3 tons	8.74	.45	.45	.25	
Driver - Fuclid and other earth moving equipment, & low boy	9.31	.45	.45	.25	
Greaser on grease facilities	9.40	.45	.45	.25	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
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)).					
LABORERS:					
Asphalt lute & rakerman, side sail setter,	$ 8.35	.45	.45	.25	
Drill operator of percussion type drills which are both powered and propelled by an independent air supply	9.75	.45	.45	.25	
Operator of following: wagon drill, Chain Saw, Jack Hammer, Concrete Saw, Sand Blaster, Concrete Chipper, Pavement Breaker, Vibrator, Power wheel Barrow, Power Buggy, - Sewer Pipe Layer, Bottom Men, Dry Cement Handler, Concrete Rubber, Mason Tender,	8.30	.45	.45	.25	
Gunnite Operator & Nozzleman	7.45	.45	.45	.25	
Hand Blade Operator, Deck Hand or Scow Man	7.20	.45	.45	.25	
Batch Truck Dumper,	8.20	.45	.45	.25	
Caisson Worker	8.45	.45	.45	.25	
General Laborer, & Flagmen	7.95	.45	.45	.25	

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tunnel Miner, Blaster, and Driller (Free Air)	$ 8.90	.45	.45	.25	
Tunnel Mucker (Free Air)	8.55	.45	.45	.25	
Tunnel Laborer (Free Air)	8.50	.45	.45	.25	
Powderman	9.55	.45	.45	.25	

DECISION NO. KY80-1107

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION:					
CLASS A	$12.07	.50	1.00	.08	
CLASS B	9.24	.50	1.00	.08	
CLASS C	8.44	.50	1.00	.08	
CLASS D	12.32	.50	1.00	.08	

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge two, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick derrick boat, ditchin and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, two or push boat, A-frame winch truck, concrete paver, grade all, hoist (tow or more drums), Hyster, pumpcrete, Ross carrier, side boom tail boom, Rotary drill, Mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes, (French, German & other types), Hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min, or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted).

CLASS C _ Bituminous distributor, cement gun conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhang, steerman, hydraulic post driver, core drill and caisson drill helper (track or skid mounted).

CLASS D Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

DECISION No. KY80-1107

POWER EQUIPMNTEN OPERATOS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HIGWAY CONSTRUCTION:					
CLASS A	$10.72	.50	1.00		.08
CLASS B	8.30	.50	1.00		.08
CLASS C	8.68	.50	1.00		.08
CLASS D	8.04	.50	1.00		.08

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, two or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), muching machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes, (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B _ All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator, compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger well points, flexplane, fireman, and hoist (one drum),

CLASS C__ Greaser on grease facilities servicing heavy equipment.

CLASS D__ Bituminous distributors, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydroseeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: Boone, Campbell, Kenton, & Pendleton

DECISION NUMBER: KY80-1108 DATE: Date of Publication

Supersedes Decision Number KY79-1139, dated October 19, 1979, in 44 FR 60527

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$14.30	.90	1.10		.075
CEMENT MASONS	14.23	.90	.95		
ELECTRICIANS	15.30	.70	3%+.80		¼ of 1%
IRONWORKERS:					
Reinforcing	14.33	1.00	1.65		.02
Structural	14.23	1.00	1.45		.03
PAINTERS:					
*Brush	14.35		.50		
*Spray	14.85		.50		
*Sandblast	15.10		.50		
*Painters on Bridges, when highest point of clearance is 60' or more, shall receive $1.00 per hour in addition to the base rate of work classifications					
PILEDRIVERMEN	14.30	.90	1.10		.075
PIPEFITTERS	14.60	1.075	1.85		.08
PLUMBERS	14.97	1.25	1.50		.07
WELDERS: Receive rate prescribed for craft performing operation to to which welding is incidental					

DECISION NO. KY80-1108

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	10.77	.70	.90		.10
GROUP 2	10.895	.70	.90		.10
GROUP 3	10.97	.70	.90		.10
GROUP 4	11.12	.70	.90		.10
GROUP 5	11.42	.70	.90		.10

GROUP 1 - Laborers (construction), Plant Laborers or Yardmen, Right-of-way Laborers, Landscape Laborers, Utility Men or Handymen, Joint Setter, Flagmen, Carpenter Tender, Waterproofing Laborers, Slurry Seal, Seal Coasting Surface Treatment or Road Mix Laborers, Riprap Laborers or Grouter, Asphalt Laborers, Dump Man (batch trucks), Guardrail 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, Motar Mixers, Sheeting and Shoring Man, Surface Grinder Man, Power Buggy and Wheelbarrow (power)

GROUP 3 - Form Setter, Bottom Man, Welder Tender (pipeline), Concrete Saw Man, Cutting with Burning Torch, Pipe Layer, Hand Spiker (railroad), Car Pusher (without air), Underground Man (working in sewer and waterline, 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

DECISION NO. KY80-1108

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASTER MECHANICS					
CLASS A	14.19	1.11	1.25		.11
CLASS B	13.94	1.11	1.25		.11
CLASS C	13.82	1.11	1.25		.11
CLASS D	12.35	1.11	1.25		.11
CLASS E	9.49	1.11	1.25		.11

CLASS A - Air Compressor on Steel Erection, Boiler Operator on Compressor or Generator when Mounted on a Rig, Cableways, Combination Concrete Mixer & Tower, Concrete Plants (over 4 yds. capacity), Concrete Pumps, Cranes (all types, including A-Frame, Boom Truck, Cherry Picker), 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 or Shaft or Tunnel Work, Hoisting Engines, Industrial Type Tractor, Jet Engine Dryer (D8 or D9) Diesel Tractor, Locomotives (standard gauge), 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, Survey Crew Party Chief, Tower Derricks, Tree Shedder, Trench Machines (over 24" wide), Truck Mounted Concrete Pumps Tug Boat, Tunnel Machine, Wheel Excavator,

CLASS B - Asphalt Paver, Automatic Subgrader Machine, Self-propelled (CMI type), Bulldozer, Endloader, Kolman Loader (production type - Dirt), Lead Greaseman, Maintenance Operators Class B, Power Grader, Power Scoops & Scrapers, Push Cat, Trench Machines (24" wide & under)

CLASS C - Air Compressors on Tunnel Work (low pressure), Asphalt Plant, Locomotive (narrow guage), Mixers, Concrete (more than 1 bag capacity), Mixers, Side Loader (1 bag capacity), Power Boilers over 15 lbs. pressure, Pump Operator Installing and Operating Well Points, Pumps (4" and over discharge), Rollers (asphalt, utility operator - small equipment), Welding Machines & Generators

DECISION NO. KY80-1108

POWER EQUIPMENT OPERATORS
(CONT'D)

GROUP D - Backfiller, Bar, Joint & Mesh Installing Machines, Batch Plant, Bull Floats, Burlap & Curing Machines, Compressors (portable - sewer, heavy & highway), Concrete Plant (capacity 4 yds. & 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 Trenches, Hydro Seeders, Plant Mixers, Post Driver, Post hole Digger (power auger), Power Brush Burner, Power Form Handling Equipment, Road Widening Trencher, Rollers (brick, grade, macadam), Self-propelled Power Spreaders, Self-propelled Subgraders, steam Fireman, Survey instrument man, Tractor (pulling sheepfoot Roller or grader), Vibratory Compactors (with integral power), Boring Machine Operators (48" or less), Hydro Hammer, Pavement Breaker

CLASS E - Drum Fireman, Asphalt Plant, Tenders-inboard-outboard Motor Boat-Launch, Oil Heaters (Asphalt Plant), Oilers, Power Driven Heaters, Pumps (under 4: discharge), Signalmen, Survey Rodmen or Chainmen, Tire Repairmen

DECISION NO. KY80-1108

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Tender	9.68	*a	*b		
Mobile Batch Truck Tender	9.68	*a	*b		
Greaser, Tire Changer, & Mechanic Tender	9.79	*a	*b		
Driver - Single Axle Dump & Flat Bed Trucks, Semi-Trailer or Pole Trailer (when used to pull building materials and equipment), Dump Truck Tandem Axle, Distributor, & Truck Mechanic	9.97	*a	*b		
Driver - Mixer Truck (all types)	10.00	*a	*b		
Driver - Euclid & other Heavy Earth Moving Equipment, Low Boy, Winch Truck & A-Frame Truck (when used in transporting materials), Ross Carrier, Fork Lift Truck (when used to transport building materials), & Pavement Breakers	10.07	*a	*b		

a. Health & Welfare Benefits are $26.00 per week
b. Pension benefits are $24.00 per week

*Fringe Benefits apply to Employees who have been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer

Unlisted classifications included within the scope of the classifications listed may be added after award only as provided in the labor standard contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: SOUTH CAROLINA
COUNTIES: CLARENDON, DARLINGTON, DILLON, FLORENCE, LEE MARION, MARLBORO, SUMTER, & WILLIAMSBURG.
DECISION NUMBER: SC80-1113 DATE: DATE OF PUBLICATION
Supersedes Decision Number SC79-1105, dated July 6, 1979, in 44 FR 39934.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.65				
BRICKLAYERS	5.69				
CARPENTERS	5.00				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	5.50				
DRYWALL HANGERS	5.00				
ELECTRICIANS	5.46				
INSULATION INSTALLERS	4.61				
LABORERS:					
Unskilled	3.33				
Mason tenders	3.40				
Mortar mixers	3.50				
PAINTERS	6.00				
PLUMBERS & PIPEFITTERS	5.11				
ROOFERS	5.00				
SHEET METAL WORKERS	4.10				
SOFT FLOOR LAYERS	4.00				
TILE SETTERS	7.03				
TRUCK DRIVERS	3.70				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	6.00				
Motor grader	4.17				

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: Washington COUNTIES: Statewide
DECISION NUMBER: WA80-5136 DATE: Date of Publication
Supersedes Decision No. WA80-5107 dated March 7, 1980, in 45 FR 15037
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:*					
Area 1	$17.64	.85	$1.30		.06
Area 2	18.34	.82	1.45		.18
Area 3	14.64	.72	1.30		.04
BOILERMAKERS	13.51	1.275	1.25	1.00	.04
BRICKLAYERS; MARBLE SETTERS:					
Area 1	14.33	.80	1.00		.05
Area 2	14.19	.80	.40		
Area 3	15.30	.80	1.00		.07
Area 4	15.47	.80	1.55		.16
Area 5	15.66	1.05	1.40		.22
Area 6	15.25	.90	.80		
Area 7	15.23	.75	1.50		.07
Area 8	14.83	.80	1.55		.23
Area 9	15.48	.80	1.65		.06
CARPENTERS:*					
Area 1:					
Carpenters	14.04	.96	1.20		.10
Piledriver; Floor Sanders; Saw Filer; Stationary Power Woodworking Tool Operator	14.19	.96	1.20		.10
Boom Men; Carpenters (creosoted material)	14.29	.96	1.20		.10
Piledriver (creosoted material)	14.44	.96	1.20		.10
Millwrights and Machine Erectors	14.54	.96	1.20		.10
Area 2:					
Carpenters and Drywall Applicators	14.93	.75	.95		.04
Carpenters on creosoted material	15.03	.75	.95		.04
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shinglers; Floor Sander and other stationary power woodworking tools	15.06	.75	.95		.04
Millwrights and Machine Erectors	15.43	.75	.95		.04

*See AREA DESCRIPTIONS- Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:* (Cont'd)					
Area 2: (Cont'd)					
Piledrivers; Bridge, Dock and Wharf Builders	$15.08	.75	.95		.04
Acoustical Workers	15.09	.75	.95		.04
Boommen	15.13	.75	.95		.04
Area 3:					
Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders	13.80	1.00	1.00	.65	.07
Floor Layers and Finishers, Stationary Power Saw Operator	13.95	1.00	1.00	.65	.07
Millwrights and Machine Erectors	14.05	1.00	1.00	.65	.07
Instrument Men	14.20	1.00	1.00	.65	.07
Piledrivermen; Bridge, Dock and Wharf Builders	13.90	1.00	1.00	.65	.07
Boommen	14.00	1.00	1.00	.65	.07
CEMENT MASONS:*					
Area 1:					
Cement Masons:					
Zone 1	13.23	.95	1.50		.15
Zone 2	14.28	.95	1.50		.15
Zone 3	14.68	.95	1.50		.15
Zone 4	15.33	.95	1.50		.15
Zone 5	16.08	.95	1.50		.15
Power Troweling Machine Gunnite Operator;					
Zone 1	13.73	.95	1.50		.15
Zone 2	14.78	.95	1.50		.15
Zone 3	15.18	.95	1.50		.15
Zone 4	15.83	.95	1.50		.15
Zone 5	16.58	.95	1.50		.15
Power Tool Operator (grinding, bushing of toxic material):					
Zone 1	14.23	.95	1.50		.15
Zone 2	15.28	.95	1.50		.15
Zone 3	15.68	.95	1.50		.15
Zone 4	16.33	.95	1.50		.15
Zone 5	17.08	.95	1.50		.15

* See AREA and ZONE Descriptions - Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:* (Cont'd)					
Area 2:					
Cement Masons	$14.63	.85	$1.25		.09
Composition, Color, Mastic, Trowel Machine; Grinder, Power Tool, Gunnite Nozzleman	14.88	.85	1.25		.09
Area 3:					
Cement Masons	12.71	.85	1.25		.02
Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools, Gunnite Nozzleman	12.96	.85	1.25		.02
Area 4:					
Cement Masons	13.10	1.05	1.17	1.00	.20
Composition Materials and power machinery	13.36	1.05	1.17	1.00	.20
ELECTRICIANS:					
Area 1:					
Electricians	16.85	.95	3%+.40		.02
Cable Splicers	17.25	.95	3%+.40		.02
Area 2:					
Electricians	16.65	.95	3%+1.30		.05
Cable Splicers	17.40	.95	3%+1.30		.05
Area 3:					
Electricians	16.50	.95	3%+1.30		.05
Cable Splicers	18.15	.95	3%+1.30		.05
Area 4:					
Electricians	17.87	.98	3%+1.30		.10
Cable Splicers	19.66	.98	3%+1.30		.10
Area 5:					
Electricians	17.75	.90	3%+1.80		.10
Cable Splicers	18.50	.90	3%+1.80		.10
Area 6:					
Electricians	16.50	.90	3%+1.75	5%	.02
Cable Splicers	18.15	.90	3%+1.75	5%	.02
Area 7:					
Electricians	15.14	1.00	3%+1.05	8%	.07
Cable Splicers	16.95	1.00	3%+1.05	8%	.07
Area 8:					
Electricians	17.85	.90	3%+.40		.04
Cable Splicers	19.64	.90	3%+.40		.04

*See AREA Descriptions - page 5

AREA and ZONE DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, and Okanogan Counties; Pacific County (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima Counties
Area 2: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 3: Remaining Counties

BRICKLAYERS; MARBLE SETTERS:
Area 1: Adams County (except City of Othello); Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, and Stevens Counties; Grand Coulee Dam Area in Okanogan County; and Whitman County
Area 2: Benton, Franklin, and Walla Walla Counties
Area 3: Chelan and Douglas Counties; Okanogan (except area of Grand Coulee Dam)
Area 4: Clallam, Island, Jefferson, King, Kitsap, and Snohomish Counties; Skagit County (south of the Cities of Burlington, Sedro-Woolley and Concrete)
Area 5: Clark and Cowlitz Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties, and ten mile strip bordering the Columbia River in Klickitat County
Area 6: Grant County and the portion of Adams County including the City of Othello
Area 7: Kittitas and Yakima Counties; Klickitat County (except a ten mile strip bordering the Columbia River)
Area 8: Grays Harbor, Lewis, and Mason Counties; Pacific County (northern portion); Pierce and Thurston Counties
Area 9: San Juan County; Skagit County (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof); and Whatcom County

CARPENTERS:
Area 1: All Counties and parts of Counties east of the 120th Meridian
Area 2: All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, and Klickiata Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion), Skamania and Wahkiakum Counties

AREA DESCRIPTIONS

CEMENT MASONS:
Area 1: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, and Grant Counties; Kittitas County (except for western portion lying one mile west of the City of Easton); Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties:

ZONES 1 , 2, 3, and 4
Travel Zone Centers: Moses Lake, Wenatchee, Pasco, Yakima, *Coeur D'Alene, *Walla Walla, Spokane and Lewiston

Area 2: Clallam, Grays Harbor, and Jefferson Counties; King County (southern portion); Kittitas County (western portion lying one mile west of the City of Easton); Lewis and Mason Counties; Pacific County (northern portion); Pierce and Thurston Counties
Area 3: Island, San Jaun, Skagit, and Snohomish Counties; King County (northern portion); Whatcom county
Area 4: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

ELECTRICIANS:
Area 1: Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties
Area 2: Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima Counties
Area 3: Chelan, Douglas, Grant, and Okanogan Counties
Area 4: Clallam, Kefferson, King, and Kitsap Counties
Area 5: Clark, Klickitat, and Skamania Counties
Area 6: Cowlitz and Wahkiakum Counties
Area 7: Grays Harbor, Lewis, Mason, Pierce, Pacific, and Thurston Counties
Area 8: Island, San Juan, Skagit, Snohomish, and Whatcom Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRONIC TECHNICIANS:*					
Area 1:					
Journeyman Installer	$10.08	.69	3%		
ELEVATOR CONSTRUCTORS:*					
Area 1	16.835	1.195	.95	a	.035
Area 2	17.44	1.195	.95	a	.035
Area 3	16.07	1.195	.82	a	.035
GLAZIERS:*					
Area 1	11.79	.42	.50	b	
Area 2	11.83	.47	.55	.77	
Area 3	10.36	.40	1.00	.68	.02
Area 4	11.06	.47	.55	b	
Area 5	13.27	.40	1.05	b	
Area 6	10.69	.42	.70		
Area 7	11.41	.61	.65		.01
INSULATION APPLICATORS:*					
Area 1	9.55	.60	.80		.02
IRONWORKERS:*					
Area 1:					
Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen	15.66	.93	1.90		.10
Area 2:					
Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen	15.66	.93	1.90		.10
LATHERS:*					
Area 1	11.00	.90	1.25		
Area 2	15.31	.85	1.00		.10
Area 3	12.42	.75	1.55		.06
MASON TENDERS:*					
Area 1:					
Mason Tenders (including Tenders of Plasterers, Bricklayers, Tile Setters, Marble Setters, and Terrazzo Workers; Topping for Cement Finishers and Mortar Mixers)	12.95	.95	1.30		.10

*See AREA Descriptions Page 7

AREA DESCRIPTIONS

ELECTRONIC TECHNICIANS:
Area 1: Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties:
(Installation and repair of low-voltage communication and alarm systems, excluding any work under the jurisdiction of a journeyman wireman)

ELEVATOR CONSTRUCTORS:
Area 1: Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman Counties
Area 2: Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, and Mason Counties; Pacific County (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima Counties
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

GLAZIERS:
Area 1: Adams County (northeastern portion); Lincoln County (eastern half); Pend Oreille, Spokane, and Stevens Counties
Area 2: Adams County (southeastern portion); Benton, Columbia, Franklin, and Walla Walla Counties
Area 3: Adams County (southwestern corner); Chelan, Douglas, and Grant Counties; Lincoln County (western half); and Okanogan County
Area 4: Asotin, Garfield, and Whitman Counties
Area 5: Clallam, Island, Jefferson, Grays Harbor, King, Kitsap, Lewis, and Mason Counties; Pacific (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties
Area 6: Yakima and Kittitas Counties
Area 7: Clark, Cowlitz, and Klickitat Counties, Pacific County (southern portion); Skamania and Wahkiakum Counties

INSULATION APPLLICATORS:
Area 1: King County

IRONWORKERS:
Area 1: Statewide, except Clark, Cowlitz, and Klickitat Counties Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 2: Clark, Cowlitz, and Klickitat Counties; Pacific County southern portion); Skamania and Wahkiakum Counties

LATHERS:
Area 1: Adams, Asotin, Benton, Chelan, Columbia, Ferry, Franklin, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties
Area 2: Clallam, Island, Jefferson, King, Kitsap, and Lewis Counties; Pacific County (northern portion); Pierce San Juan, Skagit, Snohomish, and Whatcom Counties
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

MASON TENDERS:
Area 1: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Drywall Tapers	$12.84	.53	$1.10		.02
Brush	12.99	.53	1.10		.02
Steel; Spray; Steam Cleaning; Roller, over 9" or 10' handle	13.49	.53	1.10		.02
Swing Stage work or high rate (over 30')	13.69	.53	1.10		.02
Bitumastic; Sandblasting; Bridge; Tanks on legs; Tower; Stacks; Steeples	13.79	.53	1.10		.02
Area 2:					
Brush	12.42	.90	1.00	.50	.09
Spray	12.97	.90	1.00	.50	.09
Bridges, High work over 50' (brush)	13.32	.90	1.00	.50	.09
Bridges, High work over 50' (spray)	13.87	.90	1.00	.50	.09
Drywall Finishers	14.23	.80	.80		.06
Area 3:					
General Painters	13.82	.84			.04
Drywall Tapers	14.22	.84			.04
Industrial Painter	14.22	.84			.04
Towers, Steeplejack	14.57	.84			.04
Area 3:					
Striper	14.99	.84	.25		
PLASTERERS:*					
Area 1	12.61	.95	1.50		
Area 2	14.79	.85	1.50		.12
Area 3	12.97	.75	1.00		.06
PLASTERERS' TENDERS:*					
Area 1	10.75	.82	1.00		.05
PLUMBERS:*					
Area 1	15.71	.94	1.65	1.61	.12
Area 2	16.63	.87	1.70	2.25	.16
Area 3	16.98	.90	1.45	2.00	.12
Area 4	17.77	1.50	1.85		.13

*See AREA Descriptions Page 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Area 1	$13.06	.85	$1.45		.10
Area 2	14.49	.85	.60		.04
Area 3:					
Roofers; Waterproofers	15.08	.85	1.00		.03
Slate and Tile Roofers	15.33	.85	1.00		.03
Area 4:					
Roofers; Waterproofers	14.13	.85	1.10		.10
Slate and Tile Roofers	14.38	.85	1.10		.10
Area 5:					
Roofers; Waterproofers	12.40	.85	.50		.01
Slate and Tile Roofers	12.90	.85	.50		.01
Area 6:					
Roofers	13.55	.80	1.10		.10
Handling of irritating material (coal, tar or epoxy)	13.80	.80	1.10		.10
Handling of irritating material (coal, tar or epoxy) in confined area	14.05	.80	1.10		.10
SHEET METAL WORKERS:					
Area 1	15.13	3%+.68	1.14		.14
Area 2	17.34	3%+.64	.94		.14
Area 3	15.04	1.10	1.81	1.00	.10
Area 4	14.25	3%+.68	1.06		.04
Area 5	16.65	3%+.73	1.56		.14
Area 6	15.93	3%+.73	1.49		.14
SOFT FLOOR LAYERS:*					
Area 1	11.11	.47	.60		
Area 2	10.66	.40	.90	1.21	
Area 3	11.00	.40	.90	.60	
Area 4	10.41	.47	1.00		
Area 5	13.58	.63	1.25		1%
Area 6	12.415	.60	1.05	c	.12
Area 7	12.91	.63	1.25		1%
Area 8	11.67	.47	.35		
Area 9	11.72	.63	1.25		1%

*See AREA Descriptions - Page 11

AREA DESCRIPTIONS

PAINTERS:
Area 1: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties
Area 2: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 3: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, and Thurston Counties; Pacific County (northern portion); and Whatcom County
Area 4: Statewide except Wahkiakum, Cowlitz and Skamania Counties

PLASTERERS:
Area 1: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties
Area 2: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, and Mason Counties; Pacific County (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

PLASTERERS' TENDERS:
Area 1: All Counties and portions of Counties east of the 120th Meridian

PLUMBERS:
Area 1: Chelan, Clallam, and King Counties; Kittitas County (north of 47°15' N. Lat.); Douglas County (west of the 119°30' W. Long.), Jefferson and Okanogan Counties (except the area lying east of the 119°31' W. Long., North to 48°30' N. Lat., North Lines)
Area 2: Adams County (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, and Yakima Counties; Douglas County (east of 119°30' W. Long.); Ferry County (west of a line drawn from a line from Creston in Lincoln County northward to the Canadian Border), Kittitas County (south of 47°15' N. Lat.), Lincoln County (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan County (east of 119°30' W. Long. and south of 48°30' N. Lat.)

AREA DESCRIPTIONS (Cont'd)

PLUMBERS: (Cont'd)
Area 3: Adams County (area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin and Cowlitz Counties; Ferry County (east to a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, and Lewis Counties; Lincoln County (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman, Clark, and Skamania Counties (those portions lying north of a east-west line drawn through Woodland eastward to the Klickitat County Line
Area 4: Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line

ROOFERS:
Area 1: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whtman Counties
Area 2: Benton, Franklin, Kittitas, Klickitat and Yakima Counties
Area 3: Clallam, Jefferson, King, Kitsap, Mason, and Snohomish Counties
Area 4: Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston, and Wahkiakum Counties
Area 5: Island, San Juan, Skagit, and Whatcom Counties
Area 6: Clark and Skamania Counties

SHEET METAL WORKERS:
Area 1: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties
Area 2: Clallam, Jefferson, Kitsap, and Mason Counties
Area 3: Clark and Skamania Counties
Area 4: Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston, and Wahkiakum counties
Area 5: King, Kittitas, Island, and Snohomish Counties
Area 6: Whatcom, Skagit, and San Juan Counties

SOFT FLOOR LAYERS:
Area 1: Adams County (northeastern portion); Ferry County; Lincoln County (eastern half); Pend Oreille, Spokane, and Stevens Counties
Area 2: Adams County (southeastern portion); Benton, Columbia, Franklin, and Walla Walla Counties
Area 3: Adams County (southwestern portion); Chelan, Douglas, and Grant Counties, Lincoln County (western half); Okanogan County
Area 4: Asotin, Garfield, and Whitman Counties
Area 5: Island, King, Kitsap, Skagit, Snohomish, and Whatcom Counties
Area 6: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 7: Grays Harbor, Lewis, and Mason Counties; Pacific County (northern portion); Pierce and Thurston Counties
Area 8: Yakima and Kittitas County
Area 9: Whatcom County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:*					
Area 1	$17.96	.85	$2.70		.11
Area 2	15.34	.85	1.20		.08
TERRAZZO WORKERS; TILE SETTERS:					
Area 1	12.90	.80	2.00		
Area 2	13.52	.80	.40		
Area 3	11.96	.80	1.00		.05
Area 4	14.67	.80	1.55		.16
Area 5	15.66	.90	1.20		.28
Area 6	13.25	.40			
Area 7	14.43	.80	1.80		.16
Area 8	13.84	.80	1.25		.06
TILE, MARBLE and TERRAZZO FINISHERS:					
Area 1	12.58	.80	.75		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

*Where Pacific County is stated as "Northern Portion" or "Southern Portion" such areas are defined as follows:

Pacific County (northern portion) - North of Wahkiakum County northern boundary extended due west to the Pacific Ocean

Pacific County (southern portion) - South of Wahkiakum County northern boundary extended due west to the Pacific Ocean

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A thru F.
b. Two weeks' vacation with pay after 1 year employment. Also seven Paid Holidays: A thru F plus Washington's Birthday
c. 4% of all gross wages to be placed to the credit of the employee with less than one year's service - 6% of all gross wages to be placed to the credit of the employee with more than one year of service.

AREA DESCRIPTIONS

SPRINKLER FITTERS:
Area 1: Skagit, Snohomish, King, Island, Kitsap, Pierce, and Thurston Counties
Area 2: Remaining Counties

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Adams County (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties, and Grand Coulee Dam area in Okanogan County
Area 2: Benton, Franklin, and Walla Walla Counties
Area 3: Chelan, and Douglas Counties, Okanogan County (except area of Grand Coulee Dam)
Area 4: Clallam, Island, Jefferson, King, and Kitsap Counties, Skagit County (south of the Cities of Burlington, Sedro-Woolley and Concrete); Snohomish County
Area 5: Clark, and Cowlitz Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties, and a ten-mile strip bordering the Columbia River in Klickitat County
Area 6: Grant County and that portion of Adams County including the City of Othello
Area 7: Grays Harbor, Lewis, Mason, Pierce, and Thurston Counties
Area 8: San Juan County; Skagit County (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof); Whatcom County

TILE, MARBLE and TERRAZZO FINISHERS:
Area 1: All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

LINE CONSTRUCTION

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$16.15	$17.40	$18.15	$18.90	$20.15
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	14.59	15.84	16.59	17.34	18.59
Group 3: Tree Trimmer	13.17	14.42	15.17	15.92	17.17
Group 4: Line Equipment Man	12.57	13.82	14.57	15.32	16.57
Group 5: Head Ground (Chipper), Head Groundman, Powderman, Jackhammer Man	10.99	12.24	12.99	13.74	14.99
Group 6: Groundman	10.32	11.57	12.32	15.07	14.30

FRINGE BENEFITS PAYMENTS:	GROUPS 1 to 3	GROUPS 4 to 6
Health and Welfare	$0.45	$0.45
Pension	3%+1.70	3%+1.10
Vacation	0.10	0.10
Apprenticeship Training	1/2%	1/2%

ZONE DESCRIPTIONS

BASE ZONE* 0 to 3 miles radius from the geographical center of the Cities listed below
ZONE 1: 3 to 20 miles radius
ZONE 2: 20 to 35 miles radius
ZONE 3: 35 to 50 miles radius
ZONE 4: Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford	Corvallis
Tacoma	Ephrata	Baker	Portland	Coeur D'Alene
Walla Walla	Everett	Burns	Pendleton	Kellog
Wenatchee	Kennewick	Bend	Salem	Lewiston
Yakima	Longview	Eugene	Roseburg	Orofino
Wilbur	Olympia	Seattle	Lakeview	The Dalles
Klamath Falls	Bellingham	Umatilla	Sand Point	

*BASE ZONE rate is paid when working out of employer's permanent shop.

LABORERS (AREA 1)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION					
All Counties and portions of Counties East of the 120th Meridian					
Group 1	$11.80	.97	$1.10		.10
Group 2	12.05	.97	1.10		.10
Group 3	12.30	.97	1.10		.10
Group 4	12.55	.97	1.10		.10

LABORERS (Area 1)*
All Counties and portions of Counties East of the 120th Meridian

HEAVY and HIGHWAY CONSTRUCTION

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$ 11.80	$12.85	$13.25	$13.90	$14.65
2	12.05	13.10	13.50	14.15	14.90
3	12.30	13.35	13.75	14.40	15.15
4	12.55	13.60	14.00	14.65	15.40

FRINGE BENEFITS:	
Health and Welfare	$ 0.97
Pension	1.10
Apprenticeship Training	0.10

*Underground Work -10% additional

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

LABORERS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

BUILDING, HEAVY, and HIGHWAY CONSTRUCTION

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include: Stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the nozzle of Squeeze-crete or similar machine - 6 in. and smaller); Crusher Feeder; Demolition (to include: clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (to include: Guard Rail, Guide and Reference Post, Sign Posts, and Right-of-way Markers); Flagman; General Laborer; Grout Machine Header Tender; Nippers; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover (to include: separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Truck Loader; Well-point Man; Window Cleaner; Miner Class "A" - Bull Gang, Pump Crete Crewman including Distribution Pipe, Assembling and Dismantle and Nipper

Group 2: Asphalt Raker; Asphalt Roller, walking; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Cleaning Machine Feeder; Stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (to include: Squeeze and Flow-crete Nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Railroad Equipment, power driven, except dual mobile power Spiker or Puller; Railroad power Spiker or Puller, dual mobile; Rodder and Spreader; Sandblast Tailhoseman; Tamper (to include: operation of Barco, Essex and similar Tampers, and Pavement Breakers); Trencher, Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven; Miner Class "B" - Brakeman, Finisher, Vibrator and Form Setter

Group 3: Air Track Drill; Brush Machine (to include: Horizontal Construction Joint Clean-up Brush Machine, power propelled); Caisson Worker, free air, Chain Saw Operator and Faller; Concrete Stack (to include: Laborers when 40 ft. high); Gunnite (to include: operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (to include: Grade Checkers and Elevation control); Monitor Operator (track or similar mounting); Mortar Mixer; Nozzleman (to include: Jet Blasting Nozzleman, over 1,200 lbs., Jet Blast Machine, power propelled, Sandblast Nozzle); Pipelayer (to include: working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Valve or meter Installer); Pipewrapper; Vibrator, 4 inches and over; Miner Class "C" - Miner and Nozzleman for concrete and Laser Beam Operator in Tunnels

Group 4: Drills with dual masts; Powderman; Miner Class "D" - Raise and Shaft Miner and Laser Beam Operator on Raises and Shafts

LABORERS (Area 2) All Counties West of the 120th Meridian (except those enumerated in Areas 3 those enumerated in Areas 3 and 4 and the Northern portion of Pacific County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1-A	$7.90	.95	$1.30		.08
Group 1-B	12.93	.95	1.30		.08
Group 2	13.27	.95	1.30		.08
Group 3	13.41	.95	1.30		.08
Group 4	13.51	.95	1.30		.08

Group 1A: Landscape Laborers; Window Washers

Group 1-B: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Cement Handler; Changehouse or Dry Shack; Chocker Setter; Clean up Laborer; Concrete Form Stripper; Concrete and Clean up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crusher Feeder; Curing Laborer; Demolition, wrecking and moving; Ditch Digger; Drierman; Dumpman; Elevator Feeders; Faller and Bucker, hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrial Erector; House Wrecker; Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter

LABORERS (AREA 2) (Cont'd)
All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chippers; Chocker Splicer; Chuck Tender; Clary power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Groutman, pressure, including Post Tension Beams; Jackhammer; Multiple Tampers; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper; Powderman Tender; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatswain Chain over water or 25 ft.; in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operator tools; Topman-Tailman; Track Liners; Wagon Driller and Air Trac Tender Well Point Laborer; Epoxy Technician

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete and rock, sandblast, gunnite, shotcrete); Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with rodder); Timberman, sewer; Tugger Operator; Vibrator (all); Wagon and Air Trac Operator

Grouo 4: Caisson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman; Pipe Reliner (not insert type)

LABORERS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamamia, and Wahkiakum Counties,
and the Southern portion of Pacific County

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$11.53	$12.03	$12.43	$12.93	$13.83	$14.53
2	11.88	12.38	12.78	13.28	14.18	14.88
3	12.18	12.68	13.08	13.58	14.48	15.18
4	12.43	12.93	13.33	13.83	14.73	15.43

FRINGE BENEFITS:	
Health and Welfare	$0.95
Pension	1.30
Vacation	0.65
Apprenticeship Training	0.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: General Laborer; Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Cat and Truck Loaders; Carpenter Tender; Changehouse Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking and moving Laborers; Drillers' Tenders; Dumpers, road oil crew; Dumpman (for grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, reference post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including steel forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weightman - Crusher (aggregate when used)

LABORERS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties;
and the Southern portion of Pacific County

Group 2: Applicator (including Pot Tender for same) applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary, power spreader and similar types; Clean-up Nozzleman-Greencutter (concrete, rock, etc.); Concrete power Buggyman; Crusher Feeder; Demolition and wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite and Sand Blasting Post Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Ribbon Setter, head; Rip Rap Man, head, hand placed; Sand Blasting (wet); Stake Setter; Tunnel-Muckers; Brakemen; Concrete Crew; Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators; Air Tracks; Cat Drills; Wagon Drills; Rubber - mounted Drills and other similar typed; Concrete Saw Operator; Gunite Nozzleman; High Scalers; strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down or sloping and stripping); Laser Beam (pipe laying); Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzleman; Sandblasting (dry); Sewer (Pipe Layers); Sewer Timberman; Track Liners; Anchor Machines, Ballast Regulators, multiple Tampers, power Jacks; Tugger Operator; Tunnel Chuck Tenders; Nippers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powderman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Area 4) Those portions of Chelan, Douglas, Kittitas, Okanogan, and Yakima Counties lying West of the 120th Meridian					
Group 1-A	$7.90	.95	$1.30		.08
Group 1-B	12.93	.95	1.30		.08
Group 2	13.27	.95	1.30		.08
Group 3	13.41	.95	1.30		.08
Group 4	13.51	.95	1.30		.08

Group 1A: Landscape Laborers; Window Washers

Group 1-B: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Tender; Cement Handler; Changehouse or Dry Shack; Chocker Setter; Clean up Laborer; Concrete Form Stripper; Concrete and Clean up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crusher Feeder; Curing Laborer; Demolition, wrecking and moving; Ditch Digger; Drierman; Dumpman; Elevator Feeders; Faller and Bucker, hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrial Erector; House Wrecker; Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter

LABORERS (AREA 4) (Cont'd)
Those portions of Chelan, Douglas, Kittitas, Okanogan, and Yakima Counties lying West of the 120th Meridian

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chippers; Chocker Splicer; Chuck Tender; Clary power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Groutman, pressure, including Post Tension Beams; Jackhammer; Multiple Tampers; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper; Powderman Tender; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatswain Chain over water or 25 ft.; in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operator tools; Topman-Tailman; Track Liners; Wagon Driller and Air Trac Tender Well Point Laborer; Epoxy Technician

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete and rock, sandblast, gunnite, shotcrete); Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with rodder); Timberman, sewer; Tugger Operator; Vibrator (all); Wagon and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman; Pipe Reliner (not insert type)

POWER EQUUIPMENT OPERATORS (AREA 1)*
All Counties and portions of Counties East of the 120th Meridian

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$12.05	$13.10	$13.50	$14.15	$14.90
2	12.35	13.40	13.80	14.45	15.20
3	12.90	13.95	14.35	15.00	15.75
4	13.05	14.10	14.50	15.15	15.90
5	13.20	14.25	14.65	15.30	16.05
6	13.45	14.50	14.90	15.55	16.30
7	13.70	14.75	15.15	15.80	16.55
8	14.70	15.75	16.15	16.80	17.55

FRINGE BENEFITS:	
Health and Welfare	$1.20
Pension	1.55
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Bit Grinders; Bolt Threading Machine; Compressor, under 2,000 cu. ft. per minute, gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender (Mechanic, H.D.); Oiler, Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or Compacting or Vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine; Hydro-seeder

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more, gas, diesel or electric power); Concrete Saw multiple cut); Distributor Leverman; Elevator hoisting materials; Dope Pots (power agitated); Fork lift or Lumber Stacker; Hydra-lift and similar; Gin Trucks (Pipeline); Hoist, single drum; Loader (Bucker, Elevator and Conveyors); Longitudinal Float; Mixer (portable - concrete); Pavement Breaker; Hydra Hammer and similar; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Beltcrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Batch Plant and Wet Mix Operator, single unit (concrete); Bending Machine; Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Locomotive Engineer; Mixermobile; Mucking Machines; Soil Stabilizer (P & H or similar); Spreader Machine; Pump; Tractor to D-6 or equivalent and Traxcavator; Transverse Finish Machine, Turnhead Operator

Group 4: Blade Operator (Motor Patrol and attachments); Concrete Pump (Squeeze-crete, Flow-crete, Pump-crete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Equipment Serviceman, Greaser and Oiler; Hoist (2 or more drums or Tower Hoist); Loaders (Overhead and Front-end, under 4 yards R/T); Pave or Curb Extruders (asphalt or concrete); Refrigeration Plant Engineers (under 1,000 tons); Rubber-tired Skidders (R/T with or without attachments); Screed Operator; Surface Heater and Planer Machine; Trenching Machines (under 7 feet depth capacity); Turnhead (with re-screening); Vacuum Drill (Reverse Circulation Drill, under 5" bit)

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 5: Backhoe (under 1 yard); Crane (25 tons and under); Derrick and Stifflegs (under 65 tons); Drilling Equipment (8" bit and over) (Robbins, Reverse Circulation and similar); Hoe Ram; Piledriving Engineers; Paving (dual drum); Railroad Track Liner Operator (self-propelled); Refrigeration Plant Engineer (1,000 tons and over); Signalman (Whirleys, High-line, Hammerheads or similar)

Group 6: Asphalt Plant Operator; Automatic Subgrader (Ditches and Trimmers (Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (1 yard to 3 yards); Batch Plant (over 4 units); Batch and Wet Mix Operator (multiple units, 2 and including 4); Blade (finish and bluetop) (Automatic, CMI, ABC, and similar when used as automatic); Boat Operator; Boom Cats (side); Cableway Controller (Dispatcher); Clamshell Operator (under 3 yards); Concrete Slip Form Paver; Cranes (over 25 tons including 45 tons); Crusher, Grizzle and Screening Plant Operator; Draglines (under 3 yards); Drill Doctor; H.D. Mechanic; H.D. Welder; Loader Operator (Front-end and Overhead, 4 yards including 8 yards); Multiple Dozer Units with single blade; Quad-track or similar equipment; Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yards); Rubber-tired Scrapers, Multi-engine power with one scraper (Euclid, TS 24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yards and over); Rubber-tired Scraper, multiple engines with two scrapers; Shovels (under 3 yards); Tractors (D-6 and equivalent and over); Trenching Machines (7 feet depth and over)

Group 7: Backhoe (3 yards and over); Cableway Operators; Clamshell Operator (3 yards and over); Cranes (over 45 tons to 85 tons); Derricks and Stifflegs (65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar); Loaders (Overhead and Front-end, over 8 yards to 10 yards); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Whirleys and Hammerheads, all

Group 8: Cranes (85 tons and over, and all climbing, rail and tower); Loaders (Overhead and Front-end, 10 yards and over); Helicopter Pilot

POWER EQUIPMENT OPERATORS (AREA 2) All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$17.00	.95	$1.50		.16
Group 2	16.50	.95	1.50		.16
Group 3	16.06	.95	1.50		.16
Group 4	15.70	.95	1.50		.16
Group 5	15.40	.95	1.50		.16
Group 6	13.60	.95	1.50		.16

Group 1: Cranes, 100 tons and over or 200' of boom including jib and over; Loaders, 8 yards and over; Shovels and attachments, 6 yards and over

Group 2: Cableways; Cranes, over 45 tons up to 100 tons or over 150' including jib; Rollagon; Tower Crane; Helicopter, Winch; Remote Control Operator; Loader, Overhead, 6 yards up to 8 yds.; Shovels, Backhoes, over 3 yards to 6 yards; Slipform Pavers; Scrapers, self-propelled, 45 yards and over; Quad 9, HD 41, D-10

Group 3: Concrete Batch Plant Operator; Bump Cutter; Cranes, 20 tons through 45 tons; Hydralifts; Chipper; Crushers; Derrick; Drilling Machine; Finishing Machine; Loaders, Overhead, under 6 yards; Mechanics; Mixers, Asphalt Plant; Motor Patrol Graders, finishing; Pump Truck mounted Concrete Pump with boom attachment; Piledriver Operator; Screed Man; Shovels, Backhoes, 3 yards and under; Subgrader, Trimmer; Tractors, Backhoe, over 60 HP; Scrapers, Self-propelled, under 45 yards

Group 4: Brooms; Dozers, D-9 and under; Paydozers; A-Frame Crane; Cranes up to 20 tons; Conveyors; Hoists, Air Tugger; Loaders, elevating type; Fork Lifts; Motor Patrol Grader, non-finishing; Mucking Machine; Concrete Pumps; Roller, Plant Mix or Multi-lift materials; Saws, Concrete; Scrapers, Carryall; Spreaders, Blaw Knox; Trenching Machines; Equipment Service Engineer; Oiler Driver on Truck Cranes over 45 tons; Tractor, Backhoe, 60 HP and under

Group 5: Oiler Driver on Truck Cranes, 45 tons and under; Oil Distributors, blower; Assistant Engineer (formerly Oiler classification); Pavement Breaker; Posthole Digger, mechanical; Power Plant; Wheel Tractors, Farmall type; Compressor; Pumps, water; Rollers, other than plant mix;

Group 6: Gradechecker and Stakeman

POWER EQUIPMENT OPERATORS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum
Counties; and the Southern portion of Pacific County

Groups	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$11.43	$11.83	$12.18	$12.43	$12.68	$12.93
2	11.57	11.97	12.32	12.57	12.82	13.07
3	11.67	12.07	12.42	12.67	12.92	13.17
4	11.83	12.23	12.58	12.83	13.08	13.33
5	11.85	12.25	12.60	12.85	13.10	13.35
6	11.93	12.33	12.68	12.93	13.18	13.43
7	11.99	12.39	12.74	12.99	13.24	13.49
8	12.09	12.49	12.84	13.09	13.34	13.59
9	12.15	12.55	12.90	13.15	13.40	13.65
10	12.21	12.61	12.96	13.21	13.46	13.71
11	12.23	12.63	12.98	13.23	13.48	13.73
12	12.29	12.69	13.04	13.29	13.54	13.79
13	12.37	12.77	13.12	13.37	13.62	13.87
14	12.53	12.93	13.28	13.53	13.78	14.03
15	12.69	13.09	13.44	13.69	13.94	14.19
16	12.87	13.27	13.62	13.87	14.12	14.37
17	13.01	13.41	13.76	14.01	14.26	14.51
18	13.19	13.59	13.94	14.19	14.44	14.69
19	13.33	13.73	14.08	14.33	14.58	14.83

FRINGE BENEFITS:

Health and Welfare	$1.00
Pension	1.47
Vacation	0.50
Apprenticeship Training	0.05

*See ZONE DESCRIPTION - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum
Counties; and the Southern portion of Pacific County

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Serivce Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties; and the Southern portion of Pacific County

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. Flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu .yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties; and the Southern portion of Pacific County

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu. yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and inlcuding 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in connection with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote contolled earth moving equipment; Underwater equipment, remote or otherwise

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUPMENT OPERATORS (DREDGING - AREA 1)					
All Counties and portions of Counties East of the 120th Meridan:					
Group 1	$13.02	.85	$1.50		.11
Group 2	13.12	.85	1.50		.11
Group 3	13.46	.85	1.50		.11
Group 4	13.51	.85	1.50		.11
Group 5	13.56	.85	1.50		.11
Group 6	13.88	.85	1.50		.11
Group 7:					
(a)	14.27	.85	1.50		.11
(b)	14.82	.85	1.50		.11
(DREDGING - AREA 2)					
All Counties and portions of Counties west of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County:					
Group 1	13.02	.85	1.50		.11
Group 2	13.12	.85	1.50		.11
Group 3	13.46	.85	1.50		.11
Group 4	13.51	.85	1.50		.11
Group 5	13.56	.85	1.50		.11
Group 6	13.88	.85	1.50		.11
Group 7:					
(a)	14.27	.85	1.50		.11
(b)	14.82	.85	1.50		.11
(DREDGING - AREA 3)					
Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties:					
Group 1	12.79	1.00	1.47	.50	.05
Group 1A	13.44	1.00	1.47	.50	.05
Group 2	12.42	1.00	1.47	.50	.05
Group 3	12.18	1.00	1.47	.50	.05
Group 4	11.92	1.00	1.47	.50	.05

POWER EQUIPMENT OPERATORS
DREDGING - AREAS 1 and 2

Group 1: Assistant Mate (Deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (electric, diesel, steam or booster pump); Mates and Boatman

Group 4: Engineer; Craneman

Group 5: Assistant Engineer (electric generator Operator for Primary Pump, power barge or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper:
(a) 5 yards and under
(b) Over 5 yards

POWER EQUIPMENT OPERATORS
DREDGING - AREA 3

Group 1: Leverman, Dipper

Group 1A: Leverman, Hydraulic

Group 2: Assistant Engineer (including Watch Engineer, Mehcanic, and Machinist) and Mate

Group 3: Tenderman (Boatman, attending Dredging Plant); Fireman

Group 4: Assistant Mate (Deckhand); Oiler

TRUCK DRIVERS (AREA 1)*
All Counties and portion of Counties East of the 120th Meridian

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$13.19	$14.24	$14.64	$15.29	$16.04
2	13.23	14.28	14.68	15.33	16.08
3	13.29	14.34	14.74	15.39	16.14
4	13.38	14.43	14.83	15.48	16.23
5	13.59	14.64	15.04	15.69	16.44
6	13.63	14.68	15.08	15.73	16.48
7	13.69	14.74	15.14	15.79	16.54
8	13.73	14.78	15.18	15.83	16.58
9	13.84	14.89	15.29	15.94	16.69
10	13.88	14.93	15.33	15.98	16.73
11	14.19	15.24	15.64	16.29	17.04
12	14.33	15.38	15.78	16.43	17.18
13	14.49	15.54	15.94	16.59	17.34
14	14.63	15.68	16.08	16.73	17.48

FRINGE BENEFITS:

Health and Welfare	$1.24
Pension	1.33
Apprenticeship Training	0.09

*See ZONE DEFINITOINS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Flat Bed Truck, single rear axle; Fork Lift, 3,000 lbs. and under; Tender and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck, 1,800 gallons

Group 2: Bus Driver or Employeenaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material); Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Straddle Carrier (Ross Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end, and bottom dump (under 6 yards); Water Tank Truck, 1,801 - 4,000 gallons

Group 4: Auto Crane, 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yards and under); Flat Bed Truck (with hydraulic system); Fork Lift (3,001 - 16,000 lbs.); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks, 4,001 to 6,000 gallons; Wrecker and Tow Trucks; Fuel Truck Driver; Steam Cleaner and Washer; Flaherty Spreader

Group 5: Service Greaser; Tireperson No. 2; Truck, side, end, and bottom Dump (over 6 yards to 12 yards)

Group 6: A-Frame; Water Tank Truck, 6,001 to 8,000 gallons

Group 7: Dumptor (over 6 yards); Transit Mixers and Trucks hauling concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump (over 12 yards including 20 yards); Semi Truck and Trailer; Lowboy 50 Tons and under

Group 8: Low Boy (over 50 tons); Water Tank Trucks, 8,001 to 10,000 gallons; Tractor with Steer Trailer; Truck mounted Crane with load bearing surface, either mounted or pulled

Group 9: Transit Mixer and Trucks hauling concrete (10 yards to 15 yards); Trucks, side, end, and bottom dump (over 20 yards including 30 yards); Water Tank Truck (10,001 to 12,000 gallons); Fork Lift, over 16,000 lbs.; Flaherty Spreader Box Driver; Flow Boys; Semi-end Dumps

TRUCK DRIVERS (AREA 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 10: Mechanic, Field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yards to 20 yards); Trucks, side, end, and bottom dump (over 30 yards to 40 yards); Water Tank Truck, 12,001 to 14,000 gallons

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, end, and bottom dump (over 40 yards to 50 yards)

Group 13: Trucks, side, end, and bottom dumps (over 50 yards to 100 yards)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end, and bottom dump (over 100 yards)

TRUCK DRIVERS (AREA 2) All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$13.41	.94	$1.12		.09
Group 2	12.46	.94	1.12		.09
Group 3	13.51	.94	1.12		.09
Group 4	13.62	.94	1.12		.09
Group 5	13.68	.94	1.12		.09
Group 6	13.72	.94	1.12		.09
Group 7	13.73	.94	1.12		.09
Group 8	13.79	.94	1.12		.09
Group 9	13.84	.94	1.12		.09
Group 10	13.86	.94	1.12		.09
Group 11	13.89	.94	1.12		.09
Group 12	13.99	.94	1.12		.09
Group 13	14.01	.94	1.12		.09
Group 14	14.05	.94	1.12		.09
Group 15	14.17	.94	1.12		.09
Group 16	14.21	.94	1.12		.09
Group 17	14.33	.94	1.12		.09
Group 18	14.38	.94	1.12		.09
Group 19	14.54	.94	1.12		.09
Group 20	14.70	.94	1.12		.09
Group 21	14.86	.94	1.12		.09

TRUCK DRIVERS (AREA 2)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at Bunkers and Batch Plants; Pickup Trucks, Escort or Pilot Car; Swampers; and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site, Dumpsters and similar equipment (including Tournarockers, Tournawagon, Turnatrailer, Cat DW series, Terra Cobra, LeTourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks, side, end and bottom dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yards; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Trucks, up to 1,600 gallons; Winch Truck, single rear axle; Wrecker, Tow Truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Hyster Operators; Straddle Carrier (Ross, Hyster, and similar equipment); Water Wagon and Tank Trucks, 1,6000 gallons to 3,000 gallons

Group 6: Transit-mix, 0 to and including 41 yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over 5 yards to and including 12 yards; Explosive Truck (field mix) and similar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment; Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

TRUCK DRIVERS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and inlcuding all of Kittitas and Yakima Counties

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed in Group 3) - over 16 yards to and including 20 yards; Water Wagon and Tank Truck, over 3,000 gallons

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4½ yards to and including 6 yards

Group 12: "A" Frame or Hydralift Trucks or similar equipment

Group 13: Dumpster and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Transit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

TRUCK DRIVERS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum
Countics; and the Southern portion of Pacific County

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$12.53	$13.03	$13.43	$13.93	$14.83	$15.53
2	12.58	13.08	13.48	13.98	14.88	15.58
3	12.63	13.13	13.53	14.03	14.93	15.63
4	12.68	13.18	13.58	14.08	14.98	15.68
5	12.73	13.23	13.63	14.13	15.03	15.73
6	12.83	13.33	13.73	14.23	15.13	15.83
7	12.93	13.43	13.83	14.33	15.23	15.93
8	13.03	13.53	13.93	14.43	15.33	16.03
9	13.13	13.63	14.03	14.53	15.43	16.13
10	13.30	13.80	14.20	14.70	15.60	16.30
11	13.40	13.90	14.30	14.80	15.70	16.40
12	13.50	14.00	14.40	14.90	15.80	16.50
13	13.60	14.10	14.50	15.00	15.90	16.60
14	13.70	14.20	14.60	15.10	16.00	16.70

FRINGE BENEFITS:

Health and Welfare	$0.93
Pension	1.19
Vacation	1.00
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum
Counties and the Southern portion of Pacific County

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under, Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) - 5,000 to 7,000 gallons

TRUCK DRIVERS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum
Counties and the Southern portion of Pacific County

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Tenders (handling sacked cement - add $.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

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. 80-32199 Filed 10-16-80; 8:45 am]
BILLING CODE 4510-27-C

ZONE DESCRIPTIONS (AREA 1)

LABORERS
(Heavy and Highway)
POWER EQUIPMENT OPERATORS
TRUCK DRIVERS

Travel Zone Centers:
Moses Lake Pasco Spokane Lewiston
*Coeur d'Alene *Walla Walla
*15 mile free Zone

ZONE 1 - within a 15 mile radius from the center of the above named Cities
ZONE 2 - 15-30 miles radius from the center of the above named Cities
ZONE 3 - 30-45 miles radius from the center of the above named Cities
ZONE 4 - 45-90 miles radius from the center of the above named Cities
ZONE 5 - over 90 miles radius from the center of the above named Cities

ZONE DESCRIPTIONS (AREA 3) ONLY

LABORERS
Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS
Astoria, Goldendale, Hood River, Longview
The Dalles and Vancouver

TRUCK DRIVERS
Astoria, Goldendale, Longview, The Dalles and Vancouver

ZONE 1 - all jobs or projects located within 10 miles of the respective City Hall
ZONE 2 - more than 10 miles but less than 25 miles from the respective City Hall
ZONE 3 - more than 25 miles but less than 35 miles from the respective City Hall
ZONE 4 - more than 35 miles but less than 45 miles from the respective City Hall
ZONE 5 - more than 45 miles but less than 75 miles from the respective City Hall
ZONE 6 - more than 75 miles from the respective City Hall

federal register

Friday
October 17, 1980

Part IV

Department of the Interior

Bureau of Land Management

Amendments to the Outer Continental Shelf Minerals and Rights-of-Way Management, General Regulations

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3300

[Circular No. 2477]

Amendments to the Outer Continental Shelf Minerals and Rights-of-Way Management, General Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking makes technical and procedural changes to the regulations on Outer Continental Shelf Minerals and Rights-of-way Management. The changes are necessary to conform Part 3300 with either Department of Energy regulations or Outer Continental Shelf Lands Act, as amended. These changes will clarify the existing Part 3300 and bring it into conformance with applicable portions of the Department of Energy's regulations.

EFFECTIVE DATE: October 17, 1980.

ADDRESS: Any recommendations or inquiries should be sent to: Director (540), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
William Quinn, (202) 343–5121
or
Gerard F. Fuda, (202) 343–5121.

SUPPLEMENTARY INFORMATION: This final rulemaking makes three procedural changes in Part 3300 which relate to the Outer Continental Shelf Minerals and Rights-of-Way Management, General. These changes do not impose any additional requirements on the impacted public and implement through Part 3300 requirements that currently exist in Department of Energy regulations.

The first change covers regulations controlling the joint bidding procedure. Authority to issue regulations controlling joint bidding was transferred from the Secretary of the Interior to the Secretary of Energy pursuant to section 302(b) of the Department of Energy Organization Act (42 U.S.C. 1701 et seq.). Joint bidder regulations are now contained in 10 CFR 376. However, the administration of Federal leases on the Outer Continental Shelf is the responsibility of the Secretary of the Interior and the reporting requirements pertaining to them are contained in subpart 3316 of Title 43 of the Code of Federal Regulations. It is necessary that the regulations in subpart 3316 be consistent with the recently published Department of Energy regulations on joint bidding contained in 10 CFR Part 376 (45 FR 62029) and this change accomplishes that aim.

The change eliminates the current requirement in subpart 3316 for all joint bidders to file statements of production with the Bureau of Land Management. The filing requirements will apply only to those companies who wish to submit joint bids and who are chargeable with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products.

The second change covers payment of rentals for Outer Continental Shelf leases issued under the fixed net profit sharing bidding system. The Department of Energy has the responsibility for establishing bidding systems while the Department of the Interior retains the responsibility for administering those systems in connection with the issuance and maintenance of leases. As a result of the issuance of a final rulemaking by the Department of Energy establishing a fixed net profit share bidding system at 10 CFR Parts 376 and 390 (45 FR 36784), the regulations in subpart 3317 are being changed to make them consistent with the Department of Energy regulations.

The third change is being made to subpart 3340, Grants of Pipeline Rights-of-Way on the Outer Continental Shelf. The change will bring subpart 3340 into conformance with the language of section 5(f) of the Outer Continental Shelf Land Act, as amended (43 U.S.C. 1334(f)). Section 5(f)(2) authorizes the Federal Energy Regulatory Commission to exempt certain pipelines on the Outer Continental Shelf from the requirement of complying with the competitive principles of section 5(f)(1). Section 5(e) authorizes the Secretary of the Interior to grant rights-of-way for pipelines on the Outer Continental Shelf. Subpart 3340 of Title 43 of the Code of Federal Regulations published on June 29, 1979 (44 FR 38268), does not fully reflect the language of the Act with respect to responsibilities of the Federal Energy Regulatory Commission. This change, developed in conjunction with the Federal Energy Regulatory Commission, assures consistency with the authorities of that agency pursuant to section 5(f)(2) of the Act. It is the responsibility of the applicant for a right-of-way to comply with the requirements imposed by the Federal Energy Regulatory Commission.

This rulemaking is being issued as a final rulemaking because the changes made by it are technical and make only procedural changes in the existing regulations. The joint bidding change brings these regulations into agreement with regulations already promulgated by the Department of Energy. Likewise, the change in rental payments for leases issued under the fixed net-profit share bidding system is necessary to make section 3317.1 consistent with the Department of Energy regulations (10 CFR 390, 45 FR 36784) which established the system and current practice with regard to rental payments on oil and gas leases issued under other bidding systems.

The final change more accurately reflects the language of the Outer Continental Shelf Lands Act, as amended, as it pertains to the authorities of the Federal Energy Regulatory Commission. The changes impose no new requirements to the procedure contained in part 3300. For these reasons, the changes are being adopted in final form without first being published in proposed form.

The principal authors of this rulemaking are Mr. William Quinn and Mr. Gerard F. Fuda, Division of Offshore Resources, assisted by the staff of the Office of Legislation and Regulatory Management, both of the Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), Part 3300, Group 3300, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

James W. Curlin,
Acting Assistant Secretary of the Interior.
October 10, 1980.

1. Section 3316.3–2(a) is revised to read as follows:

§ 3316.3–2 Joint bidding requirements.

(a) Any person who submits a joint bid for any oil and gas lease during a 6-month bidding period, and who was chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products, shall have filed under oath with the Director, a Statement of Production of crude oil, natural gas and liquified petroleum products, hereinafter referred to as a Statement of Production, no later than 45 days prior to the

commencement of the applicable 6-month bidding period of May 1 through October 31, and November 1 through April 30. Statements of Production shall be submitted to the Director, Bureau of Land Management (Attention: 541), Washington, D.C. 20240. The Statement of Production shall indicate that the person was chargeable, in accordance with § 3316.3–3 of this title, with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products for the prior production period. The Director shall publish semi-annually in the Federal Register a "List of Restricted Joint Bidders" to be effective immediately upon publication and to continue in force and effect until a subsequent list is published. The "List of Restricted Joint Bidders" shall consist of those persons, who in the judgment of the Director, based on information available to him, including, but not limited to, sworn Statements of Production, are chargeable under § 3316.3–3 of this title with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products for the prior production period.

* * * * *

2. Section 3316.3–4 (b), (c)(4) and (d) are revised to read as follows:

§ 3316.3–4 Bids disqualified.

* * * * *

(b) A joint bid submitted by two or more persons when 1 or more of those persons is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products and has not filed a Statement of Production as required by § 3316.3–2 of this title for the applicable 6-month bidding period, or (2) any of those persons have failed or refused to file a detailed report of production when required to do so under § 3316.4(h) of this title, or

(c) * * *

(4) For any of the types of conveyances described in paragraphs (c)(1), (2) or (3) of this section where any party to the conveyance is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products and has not filed a Statement of Production pursuant to § 3316.3–2 of this title for the applicable 6-month bidding period. Assignments expressly required by law, regulation, lease or stipulation to lease shall not disqualify an otherwise qualified bid; or

(d) A bid submitted by or in conjunction with a person who has filed a false, fraudulent or otherwise intentionally false or misleading detailed Report of Production.

3. Section 3316.4(h)(2) is revised to read as follows:

§ 3316.4 Submission of bids.

* * * * *

(h) * * *

(2) permit the inspection and copying by an official of the Department of the Interior of such documents, records of production of crude oil, natural gas and liquified petroleum products, analyses and other material as are necessary to demonstrate the accuracy of any statement or information contained in any Report of Production.

* * * * *

4. Section 3317.1 (a), (b) and (e) are revised to read as follows:

§ 3317.1 Rentals.

(a) Except for leases issued subject to fixed-net profit sharing provisions, an annual rental shall be due and payable in advance, at the rate specified in the oil and gas leases, on the first day of each lease year prior to discovery of oil or gas on the lease.

(b) The owner of any lease created by the segregation of a portion of a producing lease which is not subject to fixed net profit sharing provisions and on which segregated portion there is no production, actual or allocated, shall pay an annual rental for such segregated portion at the rate per acre or hectare specified in the lease. This rental shall be payable each lease year following the year in which the segregation became effective and prior to a discovery on such segregated portion.

* * * * *

(e) For leases issued subject to the fixed net profit sharing provisions, annual rental payments shall be due and payable in advance, on the first day of each lease year which commences prior to the date the first profit share payment becomes due. The owner of any lease created by the segreation of a portion of a lease subject to fixed net profit sharing provisions, shall pay an annual rental for such segregated portion at the rate per acre or hectare specified in the lease. This rental shall be payable each year following the year in which the segregation becomes effective and shall continue to be due and payable, in advance, on the first day of each year which commences prior to the date the first profit share payment becomes due.

5. Section 3340.1(a)(ii) is revised to read as follows:

§ 3340.1 Nature of grant.

(a) * * *

(11) Unless otherwise exempted by the Federal Energy Regulatory Commission pursuant to section 5(f)(2) of the act, the holder shall provide open and nondiscriminatory access to the pipelines to both owner and nonowner shippers.

[FR Doc. 80–32354 Filed 10–16–80; 8:45 am]

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federal register

Friday
October 17, 1980

Part V

Federal Communications Commission

Inquiry Into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-253; RM-1932; FCC 80-503]

Inquiry Into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The Federal Communications Commission proposes the creation of a new low power television broadcast service, in which stations would be authorized to originate programs to an unlimited extent and to conduct their own subscription television operations. The proposed service would include television broadcast translators, which currently are regulated under Part 74, Subpart G of the Commission's Rules. The proposed rules are based upon a Commission staff study, to be released at a later date: *Report and Recommendations in the Low Power Television Inquiry (BC Docket No. 78-253).* The action is based, in part, upon evidence of a large unsatisfied demand for television broadcast service, in both rural and urban areas.

DATES: Comments must be received on or before January 15, 1981, and reply comments on or before March 1, 1981.

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

FOR FURTHER INFORMATION CONTACT: Michael Couzens, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: No freeze on translator applications is proposed for the pendency of the rule making. The Broadcast Bureau published "Interim Processing Procedures for TV Translator Applications Seeking Low Power Features," on pages 62003-62005 of the **Federal Register** of September 17, 1980.

In the matter of an inquiry into the future role of low-power television broadcasting and television translators in the National Telecommunications System, BC Docket No. 78-253, RM-1932.

Adopted: September 9, 1980.

Released: October 17, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee concurring and issuing a statement; Commissioner Quello concurring in the result; Commissioner Washburn concurring in part and issuing a statement; Commissioner Fogarty concurring in part and issuing a separate statement.

I. Introduction

1. The Commission today concludes the inquiry stage of its study into the role of low power television broadcasting, including television translators,[1] and proposes rules for a new low power television service. These rules would be contained in a new "Subpart G—Low Power Television Broadcast Stations," in Part 74 of the Commission's rules. The current Subpart G contains the rules for television broadcast translators. Many of the features of the present Subpart G would be retained in this proposed revision, but the results of the inquiry have convinced us that we should explore a number of new approaches. Through the rule changes proposed we hope to bring television service to locations that otherwise are unserved or underserved—for whatever reasons—by regular, full service[2] television stations and by cable services. We propose to build upon the existing translator service, affording new opportunities in low power television. At the same time, translator licensees will be free to continue the service they have offered in the past, if that is their choice.

2. This proceeding began with the adoption of a *Notice of Inquiry* on August 8, 1978, 68 FCC 2d 1525 (1978, hereinafter, *"Notice").* This *Notice* made it clear that this proceeding was addressed to the entire concept of low power television broadcasting. We stressed the possibility that the current translator service could be viewed as the evolutionary basis for a larger and more flexible low power service. We observed that translator policy generally had developed on an *ad hoc* basis, and announced our purpose to be the development of a comprehensive, long-range plan. The record developed in this proceeding has fulfilled this hope, and enables us today to propose a new low power television broadcast service.

3. The decision to propose the inauguration of a new low power television service is motivated, in part, by our recognition of a large unsatisfied demand for television service. In rural areas, millions of American citizens do not receive even a basic complement of three or four television signals. In major urban areas, there are few available channels, and when one does become available, competing applications are filed. In addition, there is considerable interest in the use of other, newer television delivery systems into the home, such as multipoint distribution service (MDS), pay cable, "superstations," and videocassettes and video discs. Market studies and economic research continue to suggest that consumer demand for television programming exceeds the supply in many areas of the country. The technology now is available for low power originating stations as well as for their interconnection. With the changes we propose, we believe that low power television can play an important part in responding to these needs. Before discussing our specific proposals, we shall briefly describe the results of the inquiry stage of this proceeding. Viewed in this context, our proposals can be seen as a natural evolutionary step.

II. Results of the Inquiry

4. Shortly after the *Notice* in this proceeding was adopted, a Commission-wide task force was created to develop the public record, to sponsor research, and to perform its own studies. This group, the Low Power Television Inquiry Staff, has submitted the results of its work to the Commission as the *Report and Recommendations in the Low Power Television Inquiry* (hereinafter, *"Report").* The *Report* provides a full record that enables us to proceed to the stage of proposed rules. Because of the *Report,* we can expect that commenting parties will engage in a discussion that is clearly focused, detailed, and therefore of maximum use to the Commission in any final decision on adopting rules for this promising new service.[3] Although the *Report* is not being adopted as a position of the Commission, we have relied upon it in the preparation of this *Notice,* and would expect commenting parties to take its findings into account.

5. During the inquiry, comments and reply comments were received from more than 80 individuals and groups representing a wide range of interests. The staff summarized this record in *Attachments A* and *B* to its *Report.* The

[1] A television translator is a low power broadcast station that receives a television signal on one channel, amplifies it and transmits it on another channel. Although we expect tanslators to continue to play a part in bringing television reception, we propose to broaden the concept of low power television to include stations that originate programming and even conduct their own subscription television operations.

[2] We use the term "full service" throughout to describe television broadcast stations with complete facilities and staff. These full service stations are licensed under Part 73 of our rules.

[3] In the *Notice* we anticipated a series of inquiry and, perhaps later, rule making notices. However, we now believe that the staff's *Report* is adequate for us to sharpen the discussion at this point, and that no useful purpose would be served by adding cycles of pleading to what already is an unusually full record for the onset of rule making.

staff also commissioned a survey of very low power originations in the United States and Canada: Parry D. Teasdale, "A Micro-TV Service in the United States," *Attachment C* to the *Report* (hereinafter, "Teasdale"). In addition to its usefulness in revealing the practicalities of very low power station operations, Mr. Teasdale's report appends a significant technical study performed for the Government of Canda, where low power station operations appear to have developed to a considerable degree, Switzer Engineering Services, Ltd., "A Study of Very Low Power TV and FM Transmitters for Remote Communities," (April, 1978, hereinafter, "Switzer"). Finally, the staff performed its own studies and analyses, covering technical, economic, and legal terms.

6. The staff began its analysis with two principal goals, with which we are in agreement. The first goal was to recognize the contribution that the traditional translator operator has given in the past, and so not to recommend rules that would make translator service more difficult to provide, especially in isolated rural areas where the need for television service is greatest. The second goal was to provide maximum flexibility for new originating services to come into being, easily and at low cost. The staff recommended that a new low power television service be created by adding to well-proved translator rules and practices, rather than by attempting to create a separate service "from the ground up." Most significantly, the staff recommended the retention of secondary status for translators and for low power stations. All such stations were envisioned as operating on a noninterfering basis, and as being required to relinquish their frequency if a full service station wished to commence operations using the same channel.

7. The staff reasoned that a new secondary service could be designed for maximum flexibility—in the nature of its program service, in the technical standards, and in licensing procedures. In this way, they argued, the Commission could modify or eliminate many requirements that we would continue to apply to full service station operations. Specifically, no low power station would be required to originate programs to any extent, but all could originate to an unlimited extent. The Commission also would place no artificial restrictions upon the station's method of financial support, whether local taxes, advertisers, or subscription television (STV). Secondary status also was concluded to imply more relaxed technical standards, and a set of liberalized rules regarding ownership.

8. The Commission is well aware of the interest in, and demand for, new television outlets, both in rural and urban areas.[4] We agree with our staff that secondary status for low power stations appears to provide the key to rapid implementation of such service, and so we are proposing rules that follow the broad contours of the staff's recommendations. Before we describe our own proposals, a brief historical sketch is appropriate.[5]

III. History of Television Translators

9. The Table of Television Assignments (hereinafter, "Table") adopted in 1952 was designed to provide service to as large a part of the population as was possible and at the same time to provide local outlets for as many communities as possible.[6] Although the goals of the Table have been largely achieved, service has not been available to all who wanted it. Indeed, from the very beginning, interest in television was so great that conventional means of obtaining reception proved to be inadequate to satisfy the demand. One way of dealing with this problem was the installation of a "community antenna" that would then be connected by cable to households paying a subscription fee for the signals delivered, thus giving birth to the cable industry, originally called CATV for Community Antenna Television. A less expensive approach also was possible involving the reception and amplified retransmission of the weak television signal over a low power installation. This could be either an on-channel booster or a translator that broadcast on another channel. In the early days of television, the Commission's rules made no provision for either kind of operation. This lack of a licensing procedure, however, did not prevent the establishment of such stations. In many areas plagued by poor reception, individuals provided low power service on an extra-legal basis.[7]

10. The first such low power operation probably was established in 1948 and was used to serve homes beyond the reach of a cable TV system. Soon after that, other bossters and translators were established to extend television coverage. When complaints were filed, the Commission sent out field inspectors to shut down these unauthorized operations. By 1958, there were "the estimated number of 1,000 or so," of these unlicensed stations in operation.[8] As they grew in number, the Commission became increasingly concerned about the potential for causing interference to other broadcast services. Without a licensing procedure, the Commission had no way of incorporating them into the overall pattern of assignments.

11. It was against this background that the Commission initiated several proceedings involving the use of translator and booster systems and a possible regulatory scheme for their authorization. In the first of these proceedings, a notice of proposed rulemaking (Docket No. 11331, FCC 55–404) adopted on March 31, 1955, solicited information on the feasibility of licensing VHF and UHF television boosters. While his rulemaking was pending, the Commission adopted a second notice of proposed rulemaking (Docket No. 11611, FCC 56–44), in January of 1956, exploring a regulatory framework within which TV translator stations could be authorized and licensed.

12. The second proceeding was acted on first, and the Commission adopted a report and order which amended the rules to authorize UHF translators. They were limited to the upper 14 UHF channels (that is, Channels 70–83) and their power was limited to 10 watts. The Commission limited translators to the upper 14 UHF channels because they were less congested and would allow more flexibility to meet required protective spacing. The Commissin also believed that confining translators to the less congested upper 14 UHF channels made it possible to relax operating and licensing requirements, and, thereby, to facilitate the viability of translators.

13. While it is true that operation on these channels had the least potential for causing harmful interference to regular television reception, it also is true that these were the least advantageous channels from the translator station's point of view. Not only were there greater costs of

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[4] On April 24, 1980, we adopted an *Order* stating that no new applications for broadcast experimental stations proposing use of low power or television translator technology would be accepted for filing, *see* Public Notice, FCC 80–262, April 29, 1980. This was done, in part, because the staff had received so many expressions of interest that new experimental applications could not been handled or evaluated, within our administrative resources. On demand for new outlets more generally, *see Part III* of the *Report*.

[5] A fuller history of TV translators appears as *Part II* of the *Report*.

[6] This table appears in § 73.606(b) of the rules, *see Sixth Report and Order* in Docket No. 8736, 41 FCC 148 (1952).

[7] Kenneth A. Cox, "The Problems of Television Service for Smaller Communities," Staff Report for the Committee on Interstate and Foreign Commerce, United States Senate (85th Cong., 2d. Sess.), December 26, 1958, pp. 11–17.

[8] *Id.*, p. 16.

construction and operation, but also there was a lack of developmental experience. The Commission also rejected the suggestion for an increase in the maximum power output of translators above the 10 watts originally proposed, preferring first to gain experience from operation at the lower power.

14. At this time, the Commission was considering authorizing translators in the VHF band, but it rejected this idea, believing that it would produce interference problems. Throughout this period, the Commission assigned absolute weight to the prevention of any possibility of interference, even if this meant that it could not authorize a means of providing reception to those lacking it.

15. The Commission action restricting translators to the use of the upper 14 UHF channels did not solve the problems posed by unauthorized operations. Many translators and booster systems that had operated previously in the VHF band simply continued to do so. The first challenge to the Commission's efforts to curb these illegal operations came in a case involving C. J. Community Services, Inc. (hereinafter, "C.J."). The Commission issued a cease and desist order to C.J. to halt the operation of its television booster station. On appeal, the United States Court of Appeals for the District of Columbia Circuit reversed the Commission's Order.[9] Although the Court upheld the jurisdiction of the Commission over such operations and held that the unlicensed operation of repeaters was unlawful, it found the Commission remiss in not providing rules and procedures under which the illegal boosters could have been licensed. The Court also pointed to the pending rulemaking in Docket No. 11331, regarding the feasibility of licensing VHF boosters, as an aid in the resolution of the issues that were before the Court.

16. On June 27, 1957, the Commission issued a memorandum opinion and order (FCC 56–700) rejecting the licensing of VHF booster systems, finding what it believed were insurmountable difficulties connected with their operation. Several parties petitioned for reconsideration, requesting an opportunity to provide detailed engineering data that would prove VHF boosters to be feasible. This led the Commission to issue a new notice of proposed rulemaking (Docket No. 12116, FCC 57–829), again examining the possibility of licensing VHF boosters. Ultimately, the Commission again rejected the idea, although in the meantime it had authorized the use of UHF boosters.

17. With the authorization of translator stations and then the pending rulemaking proceeding looking toward the feasibility of licensing booster systems, the Commission determined that there was a need to examine these program distribution services, as well as cable and "satellite" systems.[10] Accordingly, a notice of inquiry was adopted on January 3, 1958, in Docket No. 12443 (FCC 58–493). Among the questions raised were: (1) What economic impact did translators, boosters, satellites and cable systems have on local television broadcast systems? and, (2) What percentage of homes received their only satisfactory television service from stations located in or near communities in which translator, booster, or cable systems were operating?

18. Finally, on July 27, 1960, the Commission issued a report and order authorizing the licensing of VHF translators and modifying the rules applying to UHF translators, 18 RR 1573. These actions are the foundation of the present translator rules. Unlike UHF translators, which could use 100 watts, VHF translators were limited to 1 watt. Because of an amendment to the Communications Act, the Commission was able to license the previously illegal operations and to permit unattended operation of translators.[11] In addition to the question of what to allow, the Commission dealt with who could have it and where it could be built. For example, television licensees were not permitted to obtain a license for a VHF translator that was designed to provide reception beyond the predicted Grade B contour of the primary station, or within its Grade A or B contour where the transitor was intended to provide reception to all or part of any community located within the Grades A contour of any other television station, if the translator would duplicate the other station's programs.

19. By the early 1960's, the general standards for translators had been developed. Although some rule changes were adopted in later years, most actions were taken in connection with applications proposing particular forms of service. Various proposals were put forward that did not meet the requirements of the rules. While the rules were not changed, on a number of occasions waivers were granted to permit operations thought to be in the public interest. Viewed in retrospect, it can be seen that these actions suggested a need for a rule changes so that waiver would not be necessary to respond to the public demand for additional television service.[12]

20. The Table standing alone could not bring adequate service to rural areas. Some areas lacked an assigned channel, while in others the channel was not put to use. This situation led the Commission to take various actions designed to encourage new service. One such approach involved support for UHF development.[13] Other measures included easing the cost of entry into television broadcasting, by permitting a television "satellite" station.[14] These measures by themselves, however, have proved inadequate to satisfy rural demand for television service.[15] In fact, the most significant progress has been made through the enterprise and ingenuity of the rural residents themselves, and later of investors and entrepreneurs, in developing two new delivery systems: television translators and CATV. These systems have grown and have become major parts of our national television service, in urban as well as rural areas.

21. As mentioned, our translator policy has evolved essentially on an *ad hoc* basis. This *Notice of Proposed Rule Making* is designed to address the technical and practical issues in broadly allowing originations on translators. To date, originations have been limited to emergency warnings and to 30 seconds per hour for fundraising. We now believe, based upon the record amassed in this proceeding, that low power stations, using translator technology, hold significant promise as a new source of network, regional and local programs, complementary to the concept of full service television development in the

[9] *C. J. Community Services* v. *F.C.C.*, 100 U.S. App. D.C. 379, 15 R.R. 2029 (1957).

[10] A "satellite" station is a full service station that rebroadcasts entirely the program schedule of another station. There also are "semisatellites" that do have local studios where a limited amount of local programming originates.

[11] Congress had stepped in to solve the problem of the construction of these stations without prior Commission authorization, waiving the ban on premature construction for those built before Congress acted. It also permitted unattended operation of stations that merely rebroadcast another station. Pub. L. 86–609, approved on July 7, 1960.

[12] The most recent of these waivers was the latest of more than 70 waivers granted for the State of Alaska, *see* Wrangell Radio Group, *et al.*, FCC 79–868, released on January 17, 1980. Other examples are collected in *Part II* of the *Report*. The innovative use of lower power technology in Alaska is described by Teasdale, pp. 11–16.

[13] Congressional action also was involved through passage of the All Channel Receiver Act. See paragraph (s) of Section 303 of the Communications Act, Pub. L. 87–529, approved on July 10, 1962, 76 Stat. 151.

[14] For a definition of satellite station, *see* note 10, *supra*.

[15] The gaps in service in rural areas are treated in *Part III* of the *Report*.

Table but also offering their own unique benefits.

IV. Proposed Policy Changes

Introduction

22. Translators simultaneously broadcast the programs of a full service station. Our proposed low power television broadcast service would retain that role in full, but as only one type of service permitted on the low power television station. Any low power television station, including those employing translator technology, would be permitted to originate to an unlimited extent, provided that certain requirements are met.[16] As mentioned, our approach begins with the fundamental principle urged by our staff that low power television broadcast stations, like television translators, should enjoy only a secondary status. This means that a translator or low power station creating harmful interference to a full service station must cease operation if it is unable to change its channel or take other steps to correct the interference. Translators and low power stations also are secondary in the sense that they must give way to a full service station proposing a mutually exclusive use of a frequency. Secondary status permits a more flexible approach that enables the low power television broadcasters to select the appropriate mix of technology that accords with local needs, up to the definitional limit of the service itself: namely, maximum transmitter output powers of 100 watts (VHF) or of 1,000 watts (UHF). The operator willing to assume the risks of secondary status would be given wide latitude to design and engineer a system adapted to local needs. We begin with the standards for programming, financial support, and ownership that we propose to apply to the low power service.

B. Program Services, Financial Support, and Ownership

23. *Low Power Station Programming.* Years ago, the Commission dealt with the question of program originations on translators, observing that:

> The technical hurdles appear insuperable at this time, and for this reason alone, we do not find warrant for initiating rulemaking now looking toward permitting programming originations by translators. We have arrived at this judgment with some regret, because there is much appeal in the exploitation of possibilities for giving smaller communities * * * a means of local self-expression, and of presenting issues of local importance.[17]

At that time the only obstacles were said to be technical. Recent technological and economic developments dictate a re-evaluation of the role of low power technology in the national telecommunications system. It now is clear that low power origination is technically feasible, and a considerable body of experience has been gained from low power originations in practice.[18] We have recognized the importance of this experience, notably in our efforts, through waivers, to support the creative use of this technology in the statewide mini-TV system in Alaska, "a system that provides the only practical means of extending off-the-air broadcast services to the numerous small remote Alaska communities."[19]

24. A number of technical developments have converged to make originations possible. One of these is the development and rapid refinement during the 1970's of low cost portable videotape players, such as the ones that have been used successfully to distribute programs to the originating mini-TV stations in Alaska. Another development, well described by a commenting party at the inquiry stage of this proceeding, is:

> * * * the advent of integrated circuits which can generate full NTSC black-and-white and color synchronization signals (instead of non-interlaced sync as used in low-cost television cameras of the past), as well as generating television carriers and graphics and lettering on the screen of a standard receiver, sometimes along with NTSC color and 4.5 MHz sound. Such integrated circuits greatly decrease the size and cost of high quality (and, for that matter, low-quality) television equipment, requiring less adjustment and being less likely to generate an out-of-tolerance condition, allowing users to concentrate more on subject matter and less on technical details.[20]

As a result, we now know that equipment for originations can be made to function reliably, without creating new problems of objectionable interference.[21] Both live and pre-recorded programs are technically feasible.

25. Finally, in the past five years, satellite technology has opened entirely new possibilities for reliable, low-cost program interconnection services.[22] The use of satellite interconnection for low power TV program services is being demonstrated by Spanish International Network, which is using satellite relays for delivery of its network feed from San Antonio to experimental translator stations that we have authorized in Denver (KA 2XE8) and in Washington, D.C. (KA2XEH).

26. Recently, we revised our translator rules to permit the use of modern FM microwave feeds to deliver program services to a translator from any suitable source.[23] The only remaining limitation upon originations—whether live, on tape, by terrestrial feed or by satellite—has been the restriction imposed by our rules limiting origination to emergency warning and to 30-second fund-raising appeals. The *Report* and record in this proceeding now persuade us that our permissive policies of allowing waivers and experiments were the prefigurement of a much broader potential for delivery of new service to the public. We therefore propose to authorize unlimited originations as an inherent feature of the proposed low power television service. We proceed to a discussion of the practicalities involved that need to be addressed in rulemaking.

27. Copyright liability for lower power stations is governed by two statutory provisions. The first is contained in the General Revision of the Copyright Law, Pub. L. 94–553, 17 U.S.C. 101 *et seq.* (1976), redefining the rights of, and limitations upon, copyright owners in the use of their works. Essentially, non-cable retransmissions, with the exception of those by governmental or non-profit entities, are subject to full copyright liability. Sec. 325(a) of the Communications Act permits the rebroadcast of programming only if the rebroadcasting station has obtained the consent of the originating station. Although rebroadcast consent needs to be sought, the Commission has held that it may not be withheld without justification. On occasion, we have considered whether the refusal was justified, depending upon the facts of the particular case and an evaluation of the circumstances involved.[24] We believe

[16] The most important distinguishing requirement is that an originating low power station must be attended by a qualified operator. Translators functioning unattended may not originate beyond emergency warnings and 30-second segments each hour. *See Report and Order* in BC Docket No. 78–252, released on May 28, 1980, 77 FCC 2d 1006 (1980). This distinction constitutes the definition of a "translator," which would be but one type of low power station.

[17] *Report and Order* in Docket No. 15971, 13 FCC 2d 305 (1968).

[18] *See* generally Switzer; *see* also the descriptions by Teasdale of low power originations in Alaska, New York State, and Canada.

[19] *Wrangell Radio Group, et. al.*, FCC 79–868, released on January 17, 1980, para,. 10.

[20] "Comments" of Kitchen Productions, Ridgecrest, California, November 27, 1978, p. 1.

[21] See *Part IV.B* of the *Report.*

[22] *See* FCC, Network Inquiry Special Staff, Video Interconnection: Technology, Costs and Regulatory Policies (Preliminary Report, March 1980).

[23] *Report and Order* in Docket No. 20539, 67 FCC 2d 209 (1978). Previously, translators had been limited to a very simple AM heterodyne conversion of the rebroadcast signal onto another frequency.

[24] This includes:

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that these existing provisions, regarding copyright and retransmission consent, are adequate to establish an initial assignment of program rights, so that low power stations will be free to enter the marketplace for programs and to privately negotiate appropriate arrangements for the program services they may offer.

28. A special case is presented by commercial substitution for television programming broadcast by conventional stations that generally are financed by advertiser support. We do not believe that a low power station should be permitted to engage in commercial substitution without the consent of the primary broadcast station. It does not follow, however, that all examples of substitution are harmful. In fact, the originating broadcast station actually may be better off with some commercial substitution by translators, because without it they might not get the additional coverage for the remainder of their advertising provided by the translator. Moreover, commercial substitution may be desirable from a communications policy perspective because communities that could not otherwise support translator or low power station operation may find commercial substitution a promising solution to the problem. Thus, we propose to permit commercial substitution, but only if the consent of all affected parties is obtained and compliance with copyright law is achieved.[25]

29. One major concern that must be addressed before we permit translators to originate programming and to collect subscription fees is the effect that increased competition may have on existing television service. This issue has been studied by the staff and *Parts IV.C* and *IV.D* of the *Report* dealing with it are quite illuminating. That analysis strongly suggests that it would be possible to achieve the contemplated increase in service without a detrimental impact on existing service. The various sections of the *Report* have considered the impact of competition of new low power over-the-air service upon cable TV and on other translators and low power stations. We find this analysis a persuasive one.[26] We believe that those parties claiming adverse economic impact must show how the effects of competition would harmfully affect the public, before obtaining any relief.

30. We believe that our proposed rules in particular can encourage competition between low power stations and cable television to deliver new and expanded services to the public. Realizing the benefits of competition, we have acted to liberalize many of our cable rules.[27] We now believe that protection of local broadcasters from cable competition was a self-defeating enterprise, and have changed our cable rules to reflect that. Even if it did help local broadcasters escape the impact of competition, this protection came at the price of denying the public the benefits of new services on the cable. In the same way, we have concluded that it is counterproductive to attempt to shield cable from the rigors of competition with low power broadcast. We believe that the time has come to establish a parity of free and open opportunities for translators and low power stations to compete not only with cable television systems, but with other distribution technologies as well. We believe that competition between low power television and cable television and others will encourage each to build upon its unique strengths. Cable is most efficient in delivering a large number of channels to areas of comparatively dense population, and in overcoming congestion of broadcast frequencies. Low power broadcast television will be particularly important in serving sparsely settled areas, in other locations where full service broadcast stations and cable are not in a position to increase program choices, and in some densely populated urban areas where the cost of laying cable is extremely high.

31. *Low Power Pay TV Operations.* Currently, translators are forbidden to alter a rebroadcast signal deliberately so as to make it inaccessible to conventional home receivers.[28] This rule precludes the use of scrambled programming to collect subscription fees. Based on the record, it appears that this ban has retarded the growth of television service, especially in rural areas. In many of these areas cable also is not feasible because of the sparseness of the population, compared with the high cost of laying cable. Translators also may not be able to respond to gaps in service, because the translator operator needs a source of funds but does not have the opportunity to require payment of a monthly subscription fee. The translator signal is available to anyone in the coverage areas, whether they contribute to the operation of the station or not, and some viewers—perhaps most—will elect to take a "free ride" rather than contribute to supporting the service. Thus, unless this problem can be overcome, translators will have limited financial viability.[29] We believe that allowing scrambled programming to be delivered via low power broadcast technology could enable communities to overcome the chronic difficulties of remote communities in securing an adequate financial base for their local television service. In this way, it could provide support for a larger and more diverse menu of television. Service improvements also could be expected in urban areas where subscription low power stations could cater to unmet demands for specialized programs. We do not believe it is necessary to require a separate STV authorization for low power stations or for translators selecting this method of financial support. Rather, STV would be inherent as an option in the low power television service, and the use of this service option would need only a minor modification of the station's license.

32. Even though we are concerned about a loss of "free" television, it does

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"* * * whether licensees of stations, through express or implied agreements or understandings, act in concert with each other or with other interests in refusing rebroadcast requests whether requesting stations serve the same or a different area as the station whose program they wish to rebroadcast, whether the request is for permission to carry a simultaneous rebroadcast or to rebroadcast a program at some subsequent date, whether the requesting station has indicated a willingness to pay a reasonable share of the legitimate costs of the originating station, whether or not other persons having interests in the program have requested or agreed to the rebroadcast, and whether the program concerned has public service aspects that make its wide dissemination to the public clearly desirable." *Memorandum Opinion and Order* in Docket No. 9808, 17 FR 10309, 1 RR 91:1136 (1952).

[25] This issue marks another distinction between the translator and the low power station. The translator may operate unattended through an exception in Sec. 318 of the Communications Act. Congress has indicated that in doing so, it should not engage in commercial substitution. See *Report and Order* in BC Docket No. 78–252, released on May 28, 1980, 77 FCC 2d 1006 (1980). The low power station, which would have a qualified operator, is not availing itself of this privilege and can negotiate with the primary station to achieve any mix of substitution that could be agreed to by the parties. The only modification that we would make to the 30-second origination allowed currently for translators would be the deletion of any specified technology of accomplishing it.

[26] Subsequently, in paras. 37–41, we propose to liberalize many of the multiple ownership rules applicable to translators. Both full service stations and cable systems would have new competitive opportunities, using low power technology themselves, under our proposals.

[27] *Report* in Docket No. 21284, 71 FCC 2d 632 (1979). *Report* in Docket No. 20989, 71 FCC 2d 951 (1979); and *Notice of Proposed Rulemaking* in Dockets 20988 and 21284, 71 FCC 2d 1004 (1979), and *Report and Order* adopted on July 22, 1980 (FCC 80–443).

[28] Sec. 74.731(d) of the rules.

[29] The potential advent of direct satellite to home broadcasting may have a significant effect on rural television service in the long term, but it would not make sense to forego important opportunities here and await this development at some unknown future date.

not serve the public interest to preclude pay service in competition with free, over-the-air, service. Equally, the public interest would not be served by artificial limitations upon the ability of advertiser-supported or tax-supported service to compete with pay television service. In our view, a mixture of advertiser-supported, tax-supported, and pay TV service is the pattern of distribution most likely to maximize consumer welfare from television. STV provides options and diversity unavailable from free television. We expect that the current fare of free television programming will continue to be available to the overwhelming majority of television households.[30]

33. For several reasons we believe that the potential loss in television service to viewers if unlimited STV operation is permitted in these communities is likely to be minimal. First, many of these communities already receive service from full service television broadcasters. Second, some of these communities already are paying for translator service either through elaborate voluntary contribution systems or through mandatory tax systems. In such cases there might be nothing more than a change in the payment mechanism more equitably distributing the cost of service to those desiring it, and actually enjoying it. Third, even if the schedule of programming presently offered by translators were to be scrambled, there is sufficient spectrum space in rural areas so that free rebroadcast television service could be provided from other sources. Fourth, given the high level of community interest in providing translator service in many communities today, local origination becomes a real possibility for these communities with the support that a scrambled system could provide. For all these reasons we believe that translator service, with a free choice for the licensee between a profit-motivated and a non-profit basis, could result in a totality of service that is more responsive to consumer demands. It could offer better signal quality and a more diverse selection of available television programming.[31]

34. Four other areas of possible regulatory intervention must be considered if we permit translators and low power television stations to collect subscription fees. They are: (1) Should we set standards for technical compatability? (2) Should we set any requirements of a minimum number of hours of free programming? (3) Should we call for the filing of franchise contracts? and (4) Should we require the leasing rather than selling of decoders? As to the first, we do not foresee any need at the present time to require scrambled translators or low power stations to conform to one chosen technical method of operation. We believe that the rigors of the marketplace will be more effective in shaping good technical performance than regulatory intervention, especially in light of the infancy of the industry and the scarcity of technical information upon which to rely.[32]

35. Currently we require full service STV stations to provide some "free" programming to consumers. However, we do not believe this requirement should be placed on low power television stations. Imposition of such a requirement could curtail the provision of the service, and it seems to us consistent to impose no minimum of "free" programming, just as no minimum amount of programming is proposed generally for low power stations. We also currently require full service STV applicants to submit the terms of agreements and arrangements that the applicant intends to have with other parties concerning the supply of subscription programs. This rule was adopted to insure that the broadcast station retains full control over the programming chosen for broadcast. We continue to believe that this is an important concern, and would specifically require than any such agreement be consistent with the rules applicable to full service programming agreements, § 73.642(e). Even so, we do not believe it is necessary for low power subscription television stations to submit these agreements. However, we are willing to consider whether it would be appropriate to arrange for access to them on a local basis so that the public can be aware of their terms.

36. We currently require full service STV broadcasters to lease rather than sell decoders to consumers. The *Report* recommended that, in the absence of an identifiable cause of market failure, this decision is best left to the individual investor. However, it also recommended that, if sale be the choice, the purchaser should receive a written explanation that the contemplated STV service is secondary. This appears to strike a reasonable balance at the onset of new service. The Commission currently is reviewing its lease-only policies for full service STV operations.[33]

37. *Ownership.* Currently, the Commission has four ownership eligibility restrictions or requirements for translator licensees. *First*, a commercial television broadcast station cannot own or financially support a VHF translator not operating on an assigned channel in the Television Table of Assignments if that translator is located in a distant television market.[34] *Second*, a cable television system cannot own a translator licensed to the same community as the cable system.[35] *Third*, translators operating at a maximum permissible power, on a channel in the Table of Assignments, normally will be authorized only to licensees of television broadcast stations unless other parties can demonstrate that they have capable technical personnel available to assure satisfactory technical quality and the avoidance of harmful interference.[36] *Finally*, no one may own or operate a VHF translator in an area receiving satisfactory service from a UHF television station or a UHF translator unless such intermixture is determined, exceptionally, to serve the public interest.[37]

38. As the analysis in the *Report* shows, all of these ownership restrictions and requirements appear unnecessary and counterproductive in their present form. Indeed, problems with present multiple ownership rules, by themselves, are an adequate justification for the comprehensive revisiting of all of our translator policies, in which today's action is a significant step. A rule that forbids our full service UHF station licensees from extending their coverage by VHF translators, while full service VHF stations may do so, arbitrarily imposes added costs upon the

[30] We do not believe that it would be in the public interest to limit translator STV operation to cases where there are at least three or four free signals available in the community. This would preclude service just where it is most needed, in the absence of any evidence that unlimited low power STV operation would adversely affect viewer interests. *See* the detailed discussion in *Part IV.D* of the *Report*.

[31] As to the competitive ramifications, we believe it is important for us not to favor any one technology, especially since translators are using spectrum on a secondary basis. Therefore, we are not proposing to require cable systems to carry translator or low power station signals, whether scrambled or not. Any negotiation and settlement that is reached by individual parties concerning carriage would be accepted by the Commission.

[32] This approach is consistent with our treatment of full service STV service where we decided that "the public interest will be served by allowing STV operators the option of deciding whether or not to standardize their system or to offer decoders compatible with whatever other STV systems are serving the market." *See First Report and Order* in Docket No. 21502, adopted September 25, 1979; FCC 79-535.

[33] *See First Report and Order* in Docket No. 21502, FCC 79-535, adopted on September 25, 1979.

[34] Sec. 74.732(e)(1) and (2).

[35] Sec. 76.501(a)(3).

[36] Sec. 74.732(i).

[37] Sec. 74.732(d).

UHF licensee, and perpetuates its comparative handicaps. This rule stands as an illustration of nothing more than the haphazard develop of translator policies to this date. We do propose to retain two of the present rules in revised form. The others would be eliminated. We believe that cross-ownership between cable television and translators need not be precluded, but we propose to retain the exclusion of cable cross ownership, in their franchise area, for low power stations that originate programming and for both translators and low power stations using scrambled signals. Common ownership in such situations could well diminish the head-to-head competition expected between them because each is the likeliest source of new competition for the other. In addition, we propose rules that would prevent a full service station from owning an originating or low power station in its own service area and would bar a national network [38] from owning an originating station.

39. There was considerable uncertainty as to the competitive effect of translators upon the national television system in the 1960's, when the scope and direction of full service development were not yet clearly in view. However, we believe that these uncertainties have been resolved and that any reasonable fear of harmful competition has been allayed. The growth of translators can be expected to increase the availability of televison, especially in rural areas, and to provide local programming. We believe that a rule prohibiting broadcast stations from owning VHF translators in distant markets would stifle this opportunity and thereby disserve the public interest. The rule restricting the use of VHF translators in areas served by either UHF full service stations or by UHF translators also disserves the public interest. The selection of a frequency to use to serve the local community will be performed most efficiently, with maximum benefit to the public, if it is made by the individual operator or investor.

40. Section 74.732(i) of the rules provides that translators authorized to operate in the Table (at 100 watts for VHF; 1,000 watts for UHF) normally will be authorized only to the licensees of full service stations. Licenses are issued to others only upon a showing of technical proficiency. This rule should be modified in light of our proposal to remove any distinction in transmitter output power arising from operation in the Table and by our proposal to require attendance by a licensed operator.[39] Moreover, advances in the reliability of low power technology have obviated the need for a separate showing of technical competency. Finally, we must recognize the fact that the present rule restricts entry to only one class of licensees, thereby discouraging the free and open development of new services by other classes of licensees. This we view as contrary to the public interest.

41. Low power stations, because they have the ability to originate programs, should be treated as "voices" in the First Amendment sense, implying that the Commission's pro-diversity ownership rules would be applicable. We propose to apply "duopoly" and "one-to-a-market" rules, as these rules are applied to TV, AM and FM broadcasting. No license would be issued to an entity already owning a station in the low power or in another broadcast service where that would result in primary service contour overlap of the two stations as defined by § 73.636 of our rules. On the other hand, we are inclined not to place a limit upon "regional concentration of control," as it is currently employed in the broadcast services, nor would we limit a single owner to a total of seven stations. The latter requirement could prevent the upgrading of many existing translator services to low power status, and the concern for anticompetitive effects is lessened where the stations are both secondary and inherently limited in their coverage potential. We note that conventional translators are not subject to any of these ownership rules today, and we do not propose to alter that policy. For ownership purposes we would regard an STV station that only rebroadcasts—in encoded form—as a low power station, rather than a translator, subject to the duopoly and one-to-a-market rules. Finally, the multiple ownership rules we propose would apply equally to commercial and to noncommercial licensees. The ownership rules will significantly affect the future shape of the service, and we specifically encourage commenting parties to offer analysis of these proposals and the related discussion is Part IV. E of the Report, which has informed our approach in this area.

42. *Programming Rules.* Unlike translators as they now exist, stations in the low power service would be able to originate programming. This raises the question of how to treat these stations in terms of the applicability of a series of requirements or policies.

43. As a general proposition, any statutory obligation or prohibition imposed upon broadcast stations must apply to translators and to low power TV broadcast stations. However, the manner in which such requirements are specified by Commission rule can and should be adjusted to reflect the actual nature and capabilities of the service. Certain statutory requirements would apply to low power stations in exactly the same fashion that they apply to every broadcaster. These include the prohibition on the broadcast of obscenity or lotteries. However, there are other areas where the statute impowers the Commission to enter the field of program regulation, consistent with the obligation to avoid censorship as contained in Section 326 of the Act, but does not require regulation of a particular type. In these areas, it is necessary carefully to weigh the goals of content regulation together with other statutory goals, including the ones that could be advanced by the inauguration of the proposed service itself. Perhaps the most important area of this type is the issue of rules appropriate to the implementation of the Fairness Doctrine in the low power television service, where we must balance carefully our goal of a new service with the minimum of regulatory oversight against the long established right of the public to be informed by our broadcast licensees.

44. Stated simply, the Fairness Doctrine is a requirement that broadcasters give fair and adequate attention to controversial issues of public importance in the community. That the attention of the broadcaster be "adequate"—an affirmative obligation to cover at least the most important of issues—commonly is spoken of as a "Part I" obligation. That the attention to issues be "fair" entails the provision of reasonable opportunities for the presentation of opposing views, a so-called "Part II" obligation.[40] The low power service that we are proposing would not provide a full range of services. Translators in this service essentially would not originate and low power stations that did choose to originate would not be required to do so to any minimum extent. Neither type of station would be required to have a studio. Accordingly, it appears reasonable in most instances to permit stations in the low power service to achieve compliance with the Fairness Doctrine by showing, in the case of a complaint, that they had accepted and broadcast a reasonable amount of responsive issue programming submitted

[38] For the definition of a national network, see § 73.658(l)(1)(v) of the rules.

[39] These proposals appear in our discussion of technical standards, *infra*, paragraphs 53 and 65–66.

[40] See, for example, *Fairness Doctrine*, 58 FCC 2d 691, 693 (1976).

to the station in a form or format compatible with the station's originating equipment, if any. The "Part II" Fairness Doctrine obligation usually could be met by a showing that a reasonable amount of time was made available for the presentation of contrasting views also submitted in a form compatible with the station's originating equipment, if any. There may be instances where a purely passive acceptance of material on a controversial issue would be inadequate, and where an obligation by the licensee itself to address the issue would be raised. In all cases, we would expect that the fairness obligation would be commensurate with the licensee's ability to offer a responsive forum, using the equipment and staff normally available to it. The obligation to afford the opportunity for opposing views would be incurred, regardless of whether or not a sponsor could be found to purchase time for such presentation.[41]

45. In the area of political broadcasting, we propose that compliance be measured in a fashion similar to the treatment of Fairness Doctrine obligations. That is, low power and translator stations would be required to provide reasonable access to, or to permit purchase of reasonable amounts of time by, legally qualified candidates for Federal elective office. However, we do not propose to require the station to provide production facilities, and see its duties as ending with the acceptance of political material furnished in any format compatible with the station's originating equipment. In all cases, once any legally qualified candidate for public office is permitted to use the facility, the requirements of Section 315 of the Communications Act would apply to access by opponents. This approach is a direct application of the current policy for translators, which are not required to offer political time if they do not originate, but must offer it in accordance with Section 315 if they do.[42]

46. The Commission's rules governing program content, in contrast to the statutory requirements, should be examined for their appropriateness in a secondary low power service. In general, we do not consider it appropriate to impose such obligations upon these stations. Several commenting parties urged that, given the nature of low power services, they should not be burdened with the types of requirements that apply to full service TV stations.[43] We agree with these parties with respect to non-entertainment programming guidelines, commercial limitations, and formal ascertainment for translator or low power station licensees. Even participation in the Emergency Broadcast System should be limited to simple requirements for directing viewers to another broadcast source of emergency information.

47. We do not believe that the Commission should require formal ascertainment in the low power television service. Ascertainment is not now required of translator stations. The low power station will have a small coverage area and typically would select a directional antenna to cover a specific pocket of local population, such as a valley floor or part of a city. The likelihood of familiarity with the service area by the licensee is much greater than is the case with full service stations, whose signals span a wider distance. Beyond this, formal requirements could impose too great a burden for these stations to carry.[43] Even though formal ascertainment would not be imposed, the Commission retains a statutory duty to find in initial licensing and at renewal that the station is serving the public interest. In this service, responsiveness to specialized needs and interests should be permitted, indeed encouraged.

C. Technical Standards

48. The proposed technical changes are designed to fit together to form a coherent whole. In fact, this interrelationship is a vital aspect of the proposal for, without it, we believe the new low power service is likely to falter. Commenting parties should take this into account. The Commission's experience in licensing translators provides a firm foundation for the technical proposals. For example, more than 2,400 VHF translators have been licensed, with no minimum mileage separations, and cases of objectionable interference are extremely rare. The technical proposals, as a whole, are refinements of existing translator policies and practices.

49. *Channel Selection.* The channel selection criteria for translators have evolved in minor increments since 1956, when translators were authorized only to Channels 70 through 83. With the reallocation of that band to the land mobile radio services in 1970, translators were encouraged to move "downward" to the highest available UHF channel. The discussion of channel assignments in the *Report* marks the first comprehensive analysis of translator assignments that has been available to us. It enables us to propose a general simplification of the standards for both VHF and UHF operations, while retaining the basic concept of secondary status to full service TV broadcast. Although relaxation of the policies in both bands is proposed, we recognize that the development of new service is likely to be concentrated in the UHF band where spectrum is more readily available. We propose to eliminate the requirement that a UHF translator applicant first look to Channels 55 through 69, and instead are inclined to permit the selection of any Channel from 14 through 69.[45] This change promises the more efficient use of UHF, and eliminates an engineering showing that places unnecessary burdens upon applicants and the Commission's administrative resources. We propose to eliminate the prohibition on VHF translators or low power stations in markets that are all-UHF. We do not believe that the benefits of a deintermixed local market are in any way placed at risk by the entry of a few secondary 10-watt or 100-watt stations. Admittedly, a unique situation is posed by all-UHF markets that the Commission specifically deintermixed. We specifically invite comments from interested parties in those markets. Although our starting assumption is that they should be treated the same as any other market, we will be attentive to any reasons that may be advanced for handling these localities under a separate standard. Finally, we propose that low power, like other TV broadcast stations, have access to auxiliary broadcast frequencies, where available, for studio-to-transmitter links and

[41] *See Cullman Broadcasting Co., Inc.*, 25 R.R. 895 (1963).

[42] See, *Public Notice*, "Acceptance of Political Advertising by UHF Translator Licensees", 62 FCC 2d 896 (1976).

[43] There is one important exception. Because of the ease with which even low power stations can achieve compliance, we propose that the Commission's rules regarding personal attacks apply in full to translator and low power stations to the extent that these stations do originate.

[44] During local origination, we propose that the station identify itself with a local telephone number where a person responsible for the station could be contacted. The *Report* stated that the question of whether this is an "ascertainment" rule or a "station identification" rule is a philosophical one, *see Part IV.F.*

[45] Our *Notice of Inquiry* in this proceeding stated that we would not revisit the reallocation of Channels 70 through 83, and no change in that approach is proposed here. New broadcast authorizations will not be made there, and translators operating there will be renewed on a secondary basis to land mobile radio. In addition, we will continue the present policy against authorization of major upgrading of translators now operating in that band. Although we have decided against a flat prohibition on the introduction of low power features to facilities at Channels 70–83, we caution applicants against making investments in frequency specific equipment there. Such applicants will not be heard to argue their investment as a reason for delaying primary land mobile radio use of the band, or even for retaining Channels 70–83 on the receiver dial. *See* UHF Comparability Task Force, *Comparability for UHF Television: Final Report* (September, 1980), pp. 106–117.

remote broadcast pickups. In some locations, a link would be essential if originations are to be carried on at all.

50. *VHF Station Power.* When VHF translators first were authorized in 1960, the transmitter power was limited to one watt. This power limitation was intended to minimize interference, particularly because no minimum mileage separation standards were established for VHF translators. In 1965, the rules were amended to permit 100-watt VHF translators to operate on vacant channels in the Table. The higher power reflected protection ensuing from the standard mileage separations between stations upon which the Table is based. For those not operating on a vacant assignment, the rules were amended in 1968 to allow transmitter powers of up to 10 watts for translators located West of the Mississippi River, including Alaska and Hawaii.[46] The one-watt power limitation was retained for stations located East of the Mississippi River because of the greater density of television stations and what was thought to be a greater possibility of interference.

51. Several commenting parties in this proceeding, including the Association of Maximum Service Telecasters (MST), have asked that we increase maximum VHF transmitter power to 10 watts for stations located in areas East of the Mississippi River. We have waived this rule on a number of occasions to permit 10-watt translators to operate at locations where interference was not likely to result. Not only has little, if any interference resulted, but also the additional power could offer real advantage in increased coverage. For these reasons, we propose to increase the maximum VHF translator power to 10 watts for stations located in areas East as well as West of the Mississippi River. We believe this step can be taken without causing interference to any existing television service. Applicants would be expected to exercise caution in selecting channels and site locations for new 10-watt VHF translators or low power TV stations. Currently, VHF stations operating on the Table must use 100-watt transmitter output, only. The *Report* argues for flexibility here, to allow a free range up to 100 watts, and we find this persuasive as an added source of choice to the applicant in designing an appropriate facility on those frequencies. In addition, the use of higher power, up to 100 watts, should be permitted to any VHF applicant that complies with the co-channel and adjacent channel minimum mileage separation applicable to full service operations, regardless of whether or not a full service channel happens to be assigned there in the Table.

52. *UHF Station Power.* The rules currently allow UHF translators to operate at transmitter powers of up to 100 watts on "unlisted" channels, outside of the Table. Translators using output channels listed in the Table must have a transmitter power of 1,000 watts, only. The National Translator Association and other commenting parties have requested us to increase the power limitations to 1,000 watts for stations that are not operating on listed channels. NTA contends that this higher power could bring service to a wide area more efficiently, thereby lessening the need for translator chains.

53. When we amended the rules to permit UHF translators on "listed" channels to operate at transmitter powers of 1,000 watts,[47] we agreed with the efficiency arguments with respect to the use of 1,000 watts. Even so, we were then reluctant to extend the 1,000-watt limit to UHF stations operating on channels not listed in the Table, fearing that such a policy could result in a high potential for interference to existing television service. In the past nine years, we have gained considerable experience in licensing UHF translator stations, and the record is virtually silent as to reported interference. For that reason, we are now inclined to increase the maximum UHF transmitter power to 1,000 watts, for translators and for low power TV stations, regardless of whether or not they operate on a listed channel.[48] It is not the assignment of a channel in the table that determines that interference will be avoided. Rather, it is the mileage separations, effective radiated power and antenna height requirements implicit in the Table. By definition, the requirement of a listed channel is a wasteful one, particularly where secondary status itself is used to assure interference protection, because the protection it offers is based on a full-power operation. For these reasons, we believe that it is desirable to unbind the relationship between station power and placement in the Table for VHF and for UHF. We also propose to eliminate the rule requiring UHF translator stations in the Table to employ transmitter powers of 1,000 watts only. We would leave the selection of a transmitter power to the applicant's own judgment.[49] Finally, the provision in the translator rules precluding use of the "fifteen mile rule" to employ a location within that distance from an assigned channel location should be deleted, to enable the licensee to select an appropriate site.[50]

54. The minimum mileage separations for translators, as they have evolved, reveal a complete paradox. For VHF, there are no minimum mileage separations. Avoidance of interference is imposed by secondary status and by certain injunctions in the Rules that the VHF translator operator must not select a channel that would interfere, and in fact must not interfere. For UHF, employing the maximum transmitter power of 100 watts outside the Table, a translator operator must fully comply with all of the existing UHF "taboos"—which were designed to minimize mutual interference between stations operated at maximum facilities of one million watts. This is, to say the least, a regime predicated upon an excess of caution. In practice, more than 2,400 VHF translators have been authorized in a more congested band, under more imprecise standards. Yet the interference problems resulting appear to have been minimal. At the same time, the tough UHF standards have discouraged UHF translator development—a result that has been contrary to our consistent policy since 1956, when we began authorizing translators solely at UHF. For VHF, we propose to retain the current general protection against interference for translators and for low power stations. With respect to UHF, the record and the staff work afford a basis for developing new criteria that are more realistic.

55. We believe that it is possible to develop standards to use in the prediction of interference. As early as 1971, in the *Report and Order* in Docket No. 18861, we indicated that it might be possible to reduce the mileage separations or "taboos," applicable to UHF translators, but said that we would have to wait until related technical studies had been completed. Now, on the basis of a study of television receiver performance performed at our laboratory facility in Laurel, Maryland, we are in a position to propose changes to the current mileage separation

[46] See *Report and Order* in Docket No. 15971, 13 FCC 2d 305, 13 RR 1577 (1968).

[47] *Report and Order* in Docket No. 18861, 47 FCC 2d 628 (1971).

[48] Because of the power gain of the antenna used, the station's effective radiated power might be as much as 30 kW ERP in the main direction of radiation.

[49] The *Report* contended that authorization should continue to be made for transmitter output power, rather than effective radiated power. However, to give the Commission's records more practical utility, for example, in reviewing any reported interference, it urged that this be included as a term of the authorization. Such a requirement appears reasonable to us, and should not be burdensone in practice.

[50] Sec. 74.702(g) and Sec. 74.702(b)(2), incorporating by reference § 73.607(b) of the rules.

standards.[51] Basically, we propose to offer applicants a two-step UHF selection procedure. First, an applicant should attempt to comply with the current separation standards. But, second, if this is shown to be infeasible for reasons of spacings or because all channels are occupied, we would accept a supplemental engineering study in lieu of compliance with the mileage separation requirements specified in § 74.702(c) of the rules.

56. the current separation standards are premised upon the use of full power by full service stations. As an alternative, we propose the use of desired-to-undesired (D/U) signal ratios as determined in the 1974 study. The maximum allowable level of the undersired F(50,10) signal at the full service station's calculated Grade B contour is found by subtracting the applicable D/U ratio from the desired F(50,50) signal level of 64 dBu V/m. In demonstrating that undesired levels are not exceeded, applicants unable to find an interference-free UHF channel in compliance with all of the minimum mileage separations should be required to employ the Commission's F(50,10) curves; or a "free space" propagation model or the F(50,50) curves for distances of less than 10 miles. Applicants could meet the required ratios by any combination of antenna directionality, antenna height, ERP, and frequency offset. Terrain shielding could be considered on a case-by-case basis. The following table indicates the values for maximum undesired F(50,10) signal that would have to be met in any such calculations:

Channel of broadcast station relative to the low power station	D/U ratio (dB)	Maximum level of undesired F(50,10) signal at Grade dB (uV/m)
Co-channel (n)[1]	45	19
Adjacent channel (n±1)	−15	79
Sound image (n−14)	−23	87
Picture image (n−15)	−6	71
Intermodulation (n±2,3,4,5)	(2)	(2)
Oscillator (n+7)	(3)	(3)

[1] "n" refers to the power channel in question. The co-channel D/U ratio of 45 dB generally is considered appropriate for stations not operating on frequency offsets. A ratio of 28 dB would apply where stations proposed operations of the basis of 10,000 Hz ±1,000 Hz offsets.

[2] Minimum separation of 20 miles.

[3] Minimum separation of 60 miles.

57. The *Report* indicates that a low power station would have to be extemely close to a full service station for interference to occur as the result of IF beat. We invite comment on the *Report's* recommendation that this taboo be inapplicable to low power and translator stations. We also propose, as indicated by the table, not to "protect" stations 14 and 15 channels above a low power facility, for reasons of sound image or picture image interference, or to protect channels seven below from oscillator radiation. In practice, it is an engineering fact that the interference travels only oneway toward the lower channel. While full service stations should be protected from mutual interference on the "image taboos" criteria, the low power applicant can make the choice of whether or not to be concerned with incoming interference without the need for a Commission rule constraining use of UHF frequencies.

58. We hope to facilitate efficient spectrum usage through the application of innovative engineering approaches to the planning of translator and low power stations, including the effective use of directional antennas and natural terrain shielding. In offering this proposal for licensing UHF translators we have relied upon our licensing experience in the VHF band, where mileage separation standards are not applied to translators. We are encouraged by the apparent lack of interference that has resulted. With this history in mind we are hopeful that this proposal for UHF channel selection would not lead to interference if applicants take proper care in the selecting of channels and in their engineering of transmitting facilities.[52]

59. *Interference.* As the Comments of MST indicate, "interference" can occur occasionally under freak conditions, as when reception of a regular station is being attempted at a very substantial distance from the television broadcast transmitter (for example, greater than 100 miles). In such cases, MST believes that it is unreasonable to require the translator to suspend operation. Its view is that in cases where there is no reasonable expectation of reception of the desired station, the trnaslator should not be required to go off the air to end the interference. We agree, and would expect that secondary status for all low power stations, including translators, can be enforced adequately by requiring the licensee's prompt cooperation in tests to determine the source of interference, and in the corrective action that may be necessary.

60. Sec. 74.703(a) provides for different treatment of interference occurring between VHF translators and that occurring between UHF translators. New UHF translators must protect existing UHF translators from interference, but if interference occurs among VHF translators, licensees have been expected to resolve the problem by mutual agreement. This implies a type of "seniority system" with UHF, but not with VHF. Upon reflection, we do not believe there is a substantial basis for this distinction. We would continue to expect them both to cooperate with one another in such matters. A priortity for the low power station first entering service should apply when disputes cannot be resolved by mutual agreement. The assignment and power proposals, described already, are intended to remove artificial distinctions among low power stations that would turn on whether or not they are operating within the TV Table. Consistently with that, we propose to eliminate the priorities among translators that are accorded by the rules, favoring those in the Table in cases of mutual interference. The general low power to low power interference criteria already described should apply to these cases, as well.

61. In the *Notice of Inquiry* in this proceeding, we specifically invited cable television parties and others to report to us on any conditions of objectionable interference arising from translator operations. *See* paragraph 20 of the *Notice.* A great deal of declamatory assertion issued from the cable parties on this point, but they completely failed to respond to the call for evidence. At length, the National Cable Television Association, in its *Reply Comments,* was able to support its general claims of

[51] W. K. Roberts and L .C. Middlekamp. A study of the Characteristics of Typical Receivers Relative to the UHF Taboos. NITS PB–235 057 (June, 1974).

[52] We propose no changes to the current policy of permitting translators to locate without minimum mileage separations, either between themselves or to cable TV head ends.

massive interference with documentation of two instances. The *Report* examined these in detail, and found them to be caused by operations outside of the Commission's technical rules. This is a proper subject for the Commission's complaint procedures, but, if anything, it is supportive of the contention that the existing rules are adequate to disclose and proscribe interfering conditions. Nevertheless, we propose a rule that low power stations should not be authorized where it has been demonstrated that interference to an existing cable television service, at the head end, will be caused. Cable parties as yet have not shown that this is likely to be anything but an issue in isolated instances. The proof to be offered in opposition to an authorization would have to be clear and convincing, in view of the ease of taking corrective action after the interfering conditions has been identified and measured in the field. Finally, where interference does arise in practice we propose three rules:

1. The low power station operator is strictly responsible for taking immediate corrective action where an interfering condition to any other service results from operations in violation of the Commission's technical standards, or from improper maintenance.

2. The cable operator should be responsible to correct interference at the cable distribution system and at the subscriber's set.[53]

3. The first-come-first-served principle should govern conditions of interference between a low power station and reception to a cable television headend. Where possible, a solution should be found by mutual agreement upon the lowest cost solution, and the sharing of any burdens from taking corrective action.

62. Finally, we propose that translators and low power stations no longer be required to suspend operations until it has been established that they are not at fault with respect to any condition of interference to another television service. It strikes us as inequitable to make the low power station the automatic "prime suspect" where objectionable interference arises. It should be adequate to require that the low power station cooperate promptly in tests to determine the source of objectionable interference. In summary, we would treat complaints of interference to CATV systems caused by low power stations or translators in the same manner as complaints involving interference among translators or low power stations. In general, we would hope that situations of interference could be resolved by mutual agreement among the affected parties. Where such agreement cannot be reached, we would continue to intervene and require remedial action if that becomes necessary.

63. *Transmitter Standards.* We are concerned primarily with maintaining those standards necessary for the prevention of objectionable interference. Additional standards that are calculated to maintain a first-rate quality of signal into the home appear to us neither necessary nor desirable. Rigorous standards may preclude the service altogether in some instances, and we have every confidence that the operator will attempt to make his or her use attractive to viewers. For these reasons we specifically reaffirm our rules that protect against out-of-band emissions, and that require good frequency tolerance. We propose to extend these standards to low power stations, and to require all low power stations that employ modulators to comply with the transmitter rules applicable to full service stations, § 73.687 (a) and (b), as translators currently do. The only relaxation in these standards recommended in the *Report* was to require that the wave form characteristics be the same, incoming and outgoing, instead of requiring conformity of the outgoing signal with a specified modulation envelope, and we agree that this should be adequate.[54] Translators and transmitters in this service should continue to be type accepted. Finally, in view of the extensive treatment given the frequency tolerance and interference issues in the *Report*, and the resolution of the subject proposed here, we are dismissing a petition for rule making on tolerances as moot.[55]

64. The foregoing rules are expected to assure the avoidance of objectionable interference. With that in mind, we are able to leave a fair degree of latitude to the operator on the quality of the service, and the monitoring and test equipment that would be necessary. We do not propose to apply the full compliment of full service station transmission standards in § 73.682 to the low power television service. Specifically, we are not inclined to create standards here for sync pulse and blanking wave forms, or color mixture, or audio distortion.[56] Stations involved in STV operations should employ FCC certified equipment for decoding, but there are no added STV transmission standards for full service stations, and we propose none for low power stations.

65. *Station Operation, Identification, and Maintenance.* Since 1960, when Congress amended the Communications Act specifically for this purpose, translators have enjoyed an exception to the statutory requirement that broadcast stations be attended by a qualified operator, 47 U.S.C. 318.[57] The low power television service we are proposing may be well beyond what Congress had in mind with this particularized exception. For this reason, we propose to require an operator for all low power television stations. Unattended operation would only be permitted for translators operating in the traditional mode, and not originating beyond 30 seconds per hour. Indeed, this requirement of an operator, pursuant to law, is the principal difference between the regulatory framework for translators, and for low power stations. The addition of a modulator to a translator adds few new complications, and the degree of operator involvement required by our *Report and Order* in Docket No. 20539 [58] should suffice: observation of the off-air signal by a person designated by the licensee for ten continuous minutes each day, using a conventional TV receiver at a convenient location.

66. In contrast, the low power station will require the direct involvement of an operator. The *Report* distinguished between an imported signal by FM microwave feed, and a local origination, from a videotape player, film chain, camera, or other local source. For the former, the *Report* recommended a direct application of the rules for microwave feed, as adopted in Docket No. 20539, but requiring the monitoring to be done by a person holding at least a Restricted Permit. For the latter, it recommended that a person so qualified be actually present at the transmitter site, at a remote control point, or at the program source. The distinction appears reasonable to us, and should pose the

[53] Not only is the cable operator the one best able to correct the condition, through shielding or otherwise, but the claim that delivery in the home warrants spectrum protection belies the entire theory of cable regulation founded upon cable not precluding other uses of broadcast frequencies.

[54] Translators limiting their originations to emergency warnings and 30-second fundraising appeals should continue to be exempt from any wave form criteria.

[55] Petition by KOAT Television, Inc., filed on February 22, 1972 (RM-1932).

[56] For discussion of these, *see Part IV.B* of the Report. The *Report* suggested "minimal" standards, for example that the channel be 6 MHz and that the number of scanning lines per frame be 525, and this seems to us adequate.

[57] The Commission is currently re-examing its operator requirements for all broadcast services. Some requirements have been eliminated and significant deregulation proposals are outstanding for others, *See Report and Order* in Docket No. 20817, FCC 79-721, November, 1979.

[58] 67 FCC 2d 209 (1978).

minimum burdens upon the originating station licensees.

67. The *Report* and the record in this proceeding indicate significant advances in the reliability of modern translator technology. We also note, however, that equipment designed to function reliably, even while unattended, must receive adequate maintenance. We propose to require that translator and low power licensees be required to conducted measurements of the carrier frequencies of their outgoing channels at least once a year and as often as necessary to assure compliance with the Commission's frequency tolerance standards. The aural carrier frequency of modulator-fed stations also should be measured. On the other hand, we would agree with the *Report* in considering it adequate to permit factory measurement of the modulation characteristics, rather than field measurement, and in allowing proof-of-performance certification to be made by Second- as well as First-Class Radio Telephone Operators.

68. The final technical issue to be considered is station identification. The format and time of station identification seem to us significant, the type of equipment to be used of minor importance. We propose to continue the current translator rule that specifies hourly transmission of the call sign in International Morse Code or identification by a primary station being rebroadcast. During local originations, we propose to require some type of identification by a local telephone number where a person responsible for the station can be contacted. We do not propose to require any particular equipment configuration to place the station "ID" onto the broadcast.

D. The Authorization Process

69. We are not proposing any minimum hours for the low power television service, nor do we make any distinction as to the type of financial support. Rebroadcast and origination, tax support, advertising and STV all are inherent as service options in this proposed new service. The goal of rapid and flexible development of the service, in response to public needs, will not be realized if the administrative process for securing an authorization itself is slow and cumbersome. *Part V* of the *Report* contains a number of recommendations to streamline and simplify the process of awarding permits and licenses. While we propose to follow the approach recommended there, interested parties should have ample opportunity to present specific alternatives. We intend to give particular weight to comments that advance procedures complementary to the goal of expeditious development of the service.

70. The *Report*, in *Part V*, recommends several steps that are designed to eliminate costly and protracted comparative cases. Any party filing a mutually exclusive application would be notified, and given 30 days to amend, specifying other facilities. If the party did not amend, the staff would have authority to attempt to work out an agreement in a "pre-designation conference." If these efforts are unavailing, a "paper hearing" would be held, in which applicants would present written evidence upon questions of basic qualification, conformity of their applications with our Rules, and on three and only three, simple and easily applied comparative criteria. The criteria would be of equal weight and would be cumulative, toward a preference for a particular applicant. The applicant who first filed a complete and sufficient application would receive a preference. The applicant under minority ownership and control greater than 50% would receive a preference. Finally, the noncommercial applicant proposing a noncommercial service for the general public would receive a preference.[59] Thus, the paper hearing in a contested case would end with findings as to which of the applicants were basically qualified, and a finding that one qualified applicant was entitled to an authorization because it had more comparative preferences than any of the others. If use of the three comparative criteria did not disclose a "winner," the case would be referred for a lottery, with each applicant having an equal chance to receive the authorization.[60]

71. We note that our staff recommended the three criteria as a "first draft" set of preferences, and propose them in that spirit. We shall carefully consider comments that advance other approaches to the comparative process balancing, as we must, the statutory goals of "fair" as well as "efficient" distribution of service.

72. The purpose of this overall approach is to avoid head-to-head competition among applicants, with its profound drain upon the resources of the parties and the administrative agency. We want to emphasize the early stages of settlement and agreement, and to de-emphasize the lottery, which we would hope need be invoked in a small minority of initially contested cases. Prior to the use of the lottery, a set of clear and simple bases for a preference should foster settlements, by foreshadowing a probable outcome to all concerned. As proposed, the party that has taken the initiative to first perfect an application is accorded a preference. The minority applicant and the noncommercial applicant are accorded a preference, as well.

73. The first filing raises at least an equitable interest by the party that seized the initiative, and who first prepared engineering analysis and other showings. This would be entitled to some weight in the comparative setting. For the preference to operate successfully, it could only be earned by the first filing of a complete and sufficient application. Criteria for this cannot be stated with certainty until a low power construction permit application form is adopted to suspersede the TV translator form, FCC Form No. 346. We invite commenting parties to suggest procedures and criteria that would comport with efficiency and fairness if this preference is used comparatively. We wish to be clear that the first filing preferance is not a reward for the submittal of a hastily prepared application. To operate successfully, the preference would be available only to the applicant meeting rigorous standards of completeness and sufficiency. A significant public interest benefit of the preference would be an overall improvement in the quality of applications as applicants endeavor to earn the preference by submitting complete and accurate applications, thereby speeding service to the public and relieving some administrative demands upon the Commission's resources.

74. We propose that a preference be accorded to applications by noncommercial entities, because we believe that non-profit operations have had an important role in the development of translator service, including pioneering efforts in origination, in Alaska and elsewhere. We want to assure strong noncommercial participation in the low power television service, cooperatively with public broadcast interests.

75. We invite public broadcasting parties to comment on any reasonable steps we could take to coordinate our

[59] In paragraph 38, *supra*, we proposed to permit certain types of cross ownership between cable and translators and low power stations. However, in a comparative case that reaches the paper hearing, we believe that cable ownership in the same locality should be disqualifying, because any other licensee could be expected to provide a new source of competition. Translator ownership in the same locality also should be disqualifying.

[60] We presently contemplate that none of these preferences would apply in a contested license renewal. We have assumed that the procedures and applicable law for renewals would be identical to those now applied for translators. We specifically invite comment on the comparative renewal process.

findings of financial qualification with the cycles of grant funding through the National Telecommunications and Information Administration and the Corporation for Public Broadcasting. We also encourage public telecommunications parties to begin planning now for the advent of low power television service, and to indicate in their comments whether they contemplate interconnection arrangements for these stations. Finally, we agree with the *Report* that in the early stages it is desirable to keep open a wide range of financing possibilities, and state that we do not rule out low power applications by noncommercial entities that would be supported by taxes, voluntary contributions, or even subscription fees. The *Report* makes it clear that the noncommercial area involves many statutory questions. These are best treated by the parties charged with statutory duties in public telecommunications, but we encourage early planning, and are ready to assist in securing a meaningful noncommercial role in the low power television service. We hope that these parties will continue to be active in this proceeding, and that they will furnish us with sufficient details regarding their own plans to enable us to complement and to strengthen their development of new noncommercial offerings in this service.

76. We also propose that a preference be accorded to applicants that are owned and controlled by minorities. The experience in Alaska and in northern Canada described in the *Report* and in Teasdale suggest that the low power television service may be an important instrument for responding to the needs and interests of particular audiences that are underserved by available television broadcast service, both in urban and rural areas. Already, the Commission has received many expressions of interest from minority groups and individuals regarding the use of low power technology to develop new service and new ownership opportunities. We specifically encourage this interest, and fully intend that the inauguration of this new broadcast service be the occasion for assuring enhanced diversity of ownership and of viewpoints in television broadcasting.

77. Under current rules, a party is not permitted to convey its permit or license within three years of the initial grant.[61] The advent of a new television service, accompanied as it is by many uncertainties, does not seem to us an appropriate place to apply this rule. Individuals and groups willing to assume the risks of development are conferring a benefit upon the public. If their calculations are not borne out, they should have the opportunity to convey to another developer who may have a more efficient plan for implementing new service. A limitation upon conveyance may cause spectrum to lay idle for reasons of that limitation, alone. In addition, this service presents us with a rare opportunity to test the efficacy of a free-transferability policy. As experience is gained, we may later decide to institute a limit, but presently we are unsure as to what the appropriate limit would be, and so do not propose to specify a rule against "trafficking." [62]

78. *Interim Handling of Applications.* Finally, we address the policy that we intend to follow during the pendency of this proceeding. We do not believe that a "freeze" on low power applications would serve the public interest. Certainly, the routine uncontested translator application should contine to be processed. In addition, we have pursued a liberal policy of waiver in the past, and have no reason to depart from that now, where applicants propose low power features, and offer a public interest justification for waiver. The staff will continue to process routine applications and will grant waivers in accordance with existing precedents or will refer novel applications to the Commission for determination on an *ad hoc* basis during the pendency of the rulemaking. All grants, including conventional translator grants, will be conditioned upon the outcome in rulemaking. The Commission will reserve the right to modify or to terminate any such authorizations upon 60 days notice after the release of any final report and order in this proceeding.

79. The staff will defer action on any application, seeking waiver, that is inconsistent with the technical standards or the ownership rules of the proposed Low Power Television Service. Because the comparative criteria and comparative procedures both are the subject of rulemaking, no mutually exclusive applications can be processed through to a grant during the pendency of this proceeding. Only after comparative criteria and procedures are finally established for the service could they then be applied to resolve mutually exclusive cases. We caution applicants that the grant of novel applications can only be done within the Commission's administrative resources. To avoid giving any premium to an interim filing, we would in no event use a first-filed preference in cases involving applications filed during the pending of the rulemaking. If we finally adopt a preference for a first filed application, we intend it to apply only when every application in a group that is mutually exclusive was filed at least 30 days after the release of a final report and order in this proceeding. Thus, we preserve the status quo by assuring that there never will be a comparative premium for the earliest filing arising during the pendency of this rulemaking.

80. If it should appear that an applicant during the interim is making filings merely to store a large quantity of TV broadcast frequencies, or where there is intrinsic or extrinsic evidence of an anticompetitive pattern of applications, we reserve the right to defer action until we have the benefit of a full record on the ownership and other issues, and have adopted final rules informed by that record. In short, we are not encouraging or discouraging interim applications, so long as applicants understand that they may in no way impinge upon our ability to respond in full to the record being developed here.

81. We encourage the submission of other suggested approaches that could be used to provide the maximum benefit from low power television and translator operation. It may be that modifications of the approaches we propose could even better serve the public interest in extending TV coverage and in providing enhanced program diversity. This applies particularly to the bases for a preference, and generally to the administrative procedures we propose here. Those proposing new approaches are asked to offer an analysis of their benefits in fulfilling the goals of the service and not simply to offer them as "bare-bones" alternatives.

V. Procedural Matters

82. Accordingly, Comments on the various proposed changes in the Commission's rules are invited to be filed not later than January 15, 1981, and Reply Comments by March 1, 1981. This action is taken pursuant to the authority contained in Sections 4(i) 303(b)(c)(g) and (r) of the Communications Act of 1934, as amended.

83. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file

[61] Sec. 73.3597 of Rules.

[62] On the other hand, it is not spectrally efficient to encourage licenses to be held solely for resale, as opposed to use. We expect every broadcast permittee and transferee—in the low power television service as in others—to exercise due diligence in pursuing its plan for the implementation of service. The application is for the purpose of specifying a plan for actual service, and we treat that plan as a serious representation to us of the applicant's intentions. Undue delay in pursuing construction would be inconsistent with this representation. Without a rule against trafficking, the failure to construct in a timely manner should result in the cancellation of the construction permit.

comments and reply comments by the dates indicated. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. The contact person for further information regarding this proceeding is Michael Couzens in the Broadcast Bureau, 1919 M St. NW., Washington, D.C. 20554 (632-6302). However, members of the public should note that from the time a notice of proposed rulemaking is issued until the time the matter no longer is subject to Commission consideration or court review, *ex parte* contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file.

84. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

85. Finally, it is ordered that the petition by KOAT Television, Inc., mentioned in para. 63 of this Notice, is dismissed as moot.

Federal Communications Commission.[63]

William J. Tricarico,

Secretary.

September 9, 1980.

Separate Statement of Chairman Charles D. Ferris

Re: Low Power Television Broadcasting

A month ago, the Commission removed the regulatory weeds of the last decade by freeing the Cable Industry from regulatory oppression. Today the Commission is planting in their place seed for hundreds of new television stations.

Low power television broadcasting, the first new broadcast service considered by the FCC in 20 years, offers the same intriguing possibilities as the advent of commercial television broadcasting in the late 1940s. It poses an exciting challenge to commercial and noncommercial entrepreneurs of creating programming to make the new service attractive to Americans.

Lower power TV offers a chance to add new TV services for our citizens, primarily over UHF channels that today go wanting because, due to the construction and operating costs of full power operation, they cannot be viable as full service UHF channels. For smaller communities, it means first local TV outlets or additional UHF outlets that might someday become full service stations. For the larger cities, it means additional choices from the TV fare they now get.

The proposals developed by the commission's staff are highly innovative. They propose unlimited multiple ownership, and do away with requirements like ascertainment, maintaining a studio or providing local origination. Operating requirements—and thereby operating costs—will be kept simple. No extra authorizations would be necessary to operate these stations on a subscription television basis. And simplified paper hearings would be employed to speed up the assignment process.

This proceeding should encourage new program ideas. The much reduced costs of low power operation, compared to start-up of a conventional TV station, along with the narrowcasting possibilities of targeting specific service areas, should attract a new breed of broadcaster, and broadcast networks, that are priced out of TV today.

We have already received applications for spanish language service and other minority-oriented networks, which we today have authorized our staff to process expeditiously, and many other potential commercial and noncommercial applicants have made their interest known. Citizens in Alaska are already receiving additional service through low-power TV operations we have previously granted through waiver of our translator rules. Other entrepreneurs should find this new marketplace a welcome opportunity, and citizens in other areas, both rural and urban, can likewise benefit from adding new television services to meet their specialized interests.

Concurring Statement of Commissioner Robert E. Lee

In re: Low-Power Television Broadcasting, BC Docket No. 78-253

I concur in issuance of this Notice of Proposed Rulemaking because it offers the promise of more viable translator operations and fosters innovative uses of the television spectrum. The proposed secondary status for these stations effectively eliminates any concern I might have had regarding degradation of regular service, which is in marked contrast to the documented effects of interference from short-spaced VHF drop-ins, also addressed today. While I am peripherally concerned about the potential impact that such stations may have on UHF development, I will reserve judgment until the record has been developed in response to this Notice.

I hope that this Notice will stimulate a lot of comment about this proposed new service. As is the case with any major revision of our rules, many of the details need a lot more thought. I hope the commenters will focus some of their attention on the procedures for handling any comparative cases which may arise and on the proposal to give preferences on the basis of race or because of a noncommercial format. Both these matters concern me, and I would benefit greatly from comments of the parties.

Finally, I am concerned that potential applicants for low-power stations have not been alerted adequately to the prospect that such stations may exhibit *very limited service areas* due to interference from regular stations. While this isn't a reason to deny anyone use of one of these channels, I don't want anyone to misunderstand what this low-power proposal really means. It certainly isn't going to be a license to print money.

Concurring—in Part—Statement of Commissioner Abbott Washburn

Re: Inquiry Into the Future Role of Low Power Television and Television Translators in the National Telecommunications System, BC Docket No. 78-253

The absence of any limitation on the multiple ownership of this proposed new service is inconsistent with the Commission's limitation on AM, FM and television stations. Currently, ownership of those services is limited to seven of each per licensee. Such limits have proved valuable in encouraging diversity of voices and ownership of facilities. A similar provision should have been included here for low power television. Nevertheless, I am concurring in the issuance of the Notice without limitation on multiple ownership of the new low power service. At this writing, I am inclined to favor a reasonable limitation on this service if it becomes a reality and before we are forced to consider grandfathering systems which would exceed whatever limits we might impose later. I encourage and seek comments for and against the advisability of limiting the multiple

[63] See attached Statements of Chairman Ferris, Commissioner Lee, Commissioner Washburn and Commissioner Fogarty.

ownership of low power television from any interested party, and will consider all such carefully before casting my vote when this proposal returns to us for a final determination.

Separate Statement of Commissioner Joseph R. Fogarty; Concurring in Part

In re: Notice of Proposed Rulemaking Looking Toward the Creation of a New Low Power Television Broadcast Service

I believe the proposed creation of a new Low Power Television Service is well-conceived in its basic concept and outline. The record developed in response to the *Notice of Inquiry* in this proceeding provides substantial assurance that low power television will offer a significant opportunity for enhanced service diversity and minority ownership without jeopardizing the technical or economic integrity of the existing full service television station system.

At the same time, however, I have serious reservations concerning the manner in which this new service would be implemented. In particular, the authorization process proposed by this *Notice* raises several difficult legal and policy issues, and because the proper resolution of these critical issues is at this juncture by no means clear, I only concur in this part of the Commission's action.

The *Notice* proposes authorization (i.e., licensing) procedures designed to minimize cases of mutual exclusivity and to avoid oral comparative hearings. Where "consultation" procedures fail to discourage or avoid mutually exclusive applications, only three comparative factors would be considered: Comparative preferences of equal and cumulative weight would be awarded to (1) the applicant who first files a complete and sufficient application; (2) non-commercial applicants proposing a non-commercial service; and (3) minority owned and controlled applicants. Applicants would *not* be allowed to compete in terms of the technical or service attributes of their respective proposed operations. In the event that comparative preferences thus awarded did not determine a "winner", a lottery would be held to determine the grant of license.

While I am sensitive to the concern that a new Low Power Television Service not be stifled by the delay and costs attending the oral comparative hearing process, I must question whether this "streamlined" procedure—and particularly the prescription of only these three limited comparative criteria—is in sufficient conformity with the Commission's statutory licensing responsibilities.

Under the Communications Act, the Commission, in passing upon an application for a permit to construct a broadcasting station, must judge by the standard of the "public convenience, interest, and necessity." [1] In construing this statutory public interest standard of broadcast regulation, the courts have observed that "Comparative analysis is implicit in any scheme of allocation and has always been at least formally a consideration in broadcasting licensing." [2] Thus, in *Ashbacker Radio Corp.* v. *FCC*,[3] the Supreme Court firmly established that under Section 309(e) of the Act where two or more applications are mutually exclusive, there must be a joint comparative hearing.

Following *Ashbacker*, the courts have held that the "full hearing" requirement of Section 309(e) includes "a decision upon all relevant criteria": [4]

> [T]he findings must cover all the substantial differences between the applicants and the ultimate conclusion must be based on a composite consideration of the findings as to each applicant.[5]
>
> "A choice between two applicants involves more than the bare qualifications of each applicant. It involves a comparison of characteristics. Both A and B may be qualified, but if a choice must be made, the question is which is the better qualified * * *
>
> "* * * Comparative qualities and not mere positive characteristics must then be considered.
>
> * * * * *
>
> "* * * The Commission cannot ignore a material difference between two applicants and make findings in respect to selected characteristics only * * * It must take into account all the characteristics which indicate differences, and reach an over-all relative determination upon an evaluation of all factors, conflicting in many cases * * *"[6]

Section 307(b) of the Act also provides a guide to the proper discharge of the Commission's licensing responsibilities:

> In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is a demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

In *FCC* v. *Allentown Broadcasting Corp.*,[7] the Supreme Court ruled that Section 307(b) requires that when mutually exclusive applicants seek authority to serve different communities, the Commission must first determine which community has the greater need for additional services and then determine which applicant can best serve that community's need. In *Pasadena Broadcasting Co.* v. *FCC*,[8] the Court of Appeals for the District of Columbia Circuit observed that the facial language of Section 307(b) "applies not only to changes in the structure of spectrum allocation, such as grants of new licenses or modifications, but to license renewals as well," and adjures the Commission to "consider the propriety of allocation 'when and insofar as there is demand' for service." [9] Based on this analysis, the court concluded that the "Satisfaction of these statutory commands is not, nor ought it to be, a one-time thing, for the balance of demand for service will shift among communities over time." [10] The *Pasadena* court also noted that because "Local transmission service bestows such important benefits," Section 307(b) has been consistently interpreted * * * virtually to ensure an applicant for first local service preference over one who proposes merely to complement preexisting local operations." [11]

These statutory provisions embody the fundamental principle that the comparative process is designed specifically to ensure "the best practicable service" to the public by licensees of broadcast facilities. The critical importance of this principle was stated by the Supreme Court in *National Broadcasting Co.* v. *United States* [12] in a passage which especially warrants full quotation here:

> The facilities of radio are limited and therefore precious; they cannot be left to wasteful use without detriment to the public interest. "An important element of public interest and convenience affecting the issue of a license is the ability of the licensee to render the best practicable service to the community reached by his broadcasts." *FCC* v. *Sanders Radio Station*, 309 U.S. 470, 475. The Commission's licensing function cannot be discharged, therefore, merely by finding that there are no technological objections to the granting of a license. If the criterion of "public interest" were limited to such matters, how could the Commission choose

[1] *FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940).

[2] *Central Florida Enterprises, Inc.* v. *FCC*, 598 F.2d 37, 41 (D.C. Cir. 1978).

[3] 326 U.S. 327 (1945).

[4] *Citizens Communications Center* v. *FCC*, 447 F.2d 1201,1212 (D.C. Cir. 1971).

[5] Greater Boston Television Corp. *v.* FCC, 444 F.2d 841, 851 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971).

[6] *Citizens Communications Center* v. *FCC*, 447 F.2d at 1212, quoting *Johnston Broadcasting Co.* v. *FCC*, 175 F.2d 351, 356–57 (D.C. Cir. 1949).

[7] 349 U.S. 358 (1955).

[8] 555 F.2d 1046 (D.C. Cir. 1977).

[9] *Id.* at 1051 n. 39.

[10] *Id.*

[11] *Id.* at 1050–51 (Footnote citations omitted).

[12] 319 U.S. 190 (1943).

between two applicants for the same facilities, each of whom is financially and technically qualified to operate a station? Since the very inception of federal regulation by radio, comparative considerations as to the services to be rendered have governed the application of the standard of "public interest, convenience, or necessity."[13]

When measured against these statutory requirements and interpretative judicial precedent, the proposed assignment and licensing procedures for the new Low Power Television Service are problematical, to say the least. The *Notice* issued by the Commission seems to acknowledge that we are required to evaluate and decide all "substantial relevant differences" between competing applications; however, while first filer status, minority ownership and control, and non-commercial status and operation represent significant "public interest" applicant attributes, they are by no means exhaustive of such characteristics. In this regard, I must question why proposed service and technical operation characteristics are not to be deemed "substantial and relevant" to the ultimate public interest in the use of these new low power television frequencies and thus entitled to comparative evaluation. Again, it bears emphasizing that " 'The Commission cannot ignore a material difference between two applicants and make findings in respect to selected characteristics only * * *.' "[14] "[C]omparative considerations as to the services to be rendered * * * govern[ ] the application of the standard of 'public interest, convenience, or necessity.' "[15] If service and technical attributes do not count in the process of determining "best practicable service," what do?

I also find troublesome the "equal weighting" of the three "comparative" factors proposed by the *Notice*. As the courts have repeatedly held, where a choice must be made between two or more competing applicants, "* * * the question is which is the *better* qualified."[16] A proper determination of this ultimate issue requires that the Commission consider "Comparative qualities and not mere positive characteristics * * *"[17] This clearly means that the Commission "must take into account all the characteristics which indicate differences, and reach an *over-all relative determination* upon an evaluation of *all* factors, conflicting *in many cases*."[18] First filing status, minority ownership and control, and non-commercial status and operation are "mere positive characteristics," and it strikes me as extremely doubtful that in any given case an "equal weighting" of these factors among competing applicants would suffice as the "overall *relative* determination" which the statute and interpretative case law commands. Section 309(e) and its surrounding precedent implicate a more searching and refined comparative analysis. Moreover, while *"no hearing* need be held where an application fails to measure up to the Commission's rules and does not indicate waiver," the Commission is not authorized "to deny *qualified* applicants their statutory right to a *full hearing* on their own merits."[19] The "equal weighting" process cannot be easily squared with this "full hearing" requirement of the statute.

From the standpoint of Section 307(b)'s requirements, there is an implicit suggestion in the *Notice* that comparative evaluation of service and technical differences would increase the delay and costs of the authorization process and thus impinge on the "efficient" distribution of new low power television facilities. However, the Commission cannot emphasize the "efficient" distribution of these limited facilities to the exclusion or nullification of the statutory command that this distribution also be "fair" and "equitable." In this regard, judicial holding has firmly rejected the "notion" that Section 307(b)'s requirement of "fair, efficient, and equitable" spectrum allocation is "a tailsman whereby the rigors of a comparative hearing may be avoided if only grounds for decision can be found that smack of 'efficiency'—or, presumably, 'fairness' or 'equity.' "[20]

Two hypothetical—but plausibly foreseeable—cases illustrate the flaws and difficulties which may be inherent in the authorization process tentatively proposed by the Notice:

Assume there are three low power television channel allotments available in the Detroit, Michigan, area. Also assume that two of these three allotments have already been granted to minority owned and controlled applicants pursuant to the proposed three-factor preference criteria. Assume further that the third and remaining channel is applied for by another minority applicant and a non-minority applicant proposing to serve the Polish-American enclave of Hamtramck (a city within the city of Detroit) with Polish-language and -ethnic programming. Under the limited three-factor criteria, the minority applicant would receive a preference and the competing applicant would not (unless it was the first filer or non-commercial). If the minority preference were determinative of the contest, or led to a lottery in which the minority applicant prevailed, how could this process and result be squared with the most elementary principles of "fair" and "equitable" distribution of television service? Would not a grant to the minority applicant in this case be *prima facie* irrational, arbitrary, and capricious?

Assume a "first filed" application by a non-minority, commercial applicant proposes a pure translator operation while another non-minority, commercial applicant proposes a primarily local origination service. The process and criteria proposed by the *Notice* would dictate that the pure translator service be preferred over the local origination service proposal. But, how could this process and result be reconciled with the statutory goal of "best practicable service" and the judicially recognized Section 307(b) preference for local transmission service?

I believe that a few cautionary observations are also appropriate on the *Notice's* tentative preference for paper hearings and lotteries in structuring a special authorization process for the new Low Power Television Service. The Commission's authority to resolve mutually exclusive comparative proceedings on the basis of the competing applications and pleadings responsive thereto, without oral hearings, has never been fully explored. I think the public interest would be well served by pursuing the procedural and statutory implications of this issue in this proceeding. At the outset of this inquiry, it should be noted that the "full hearing" requirement of Section 309(e) does not necessarily implicate a full oral or evidentiary hearing in all cases. The test should be one of substance, not mere formality. If the Commission can make a rational, principled, and thorough evalution of the basic and comparative characteristics of the competing applicants on the written record alone, I see no statutory or administrative requirement that the Commission nonetheless must hold an oral hearing before making its choice. This, of course, may only state the critical issue, that is, whether the written record joins substantial and material questions of fact concerning the basic and comparative merits of the competing applicants which can be satisfactorily resolved only in the

[13] *Id.* at 216–17.
[14] Citizens Communications Center, *supra* n. 6.
[15] National Broadcasting Co., *supra* n. 12.
[16] Citizens Communications Center, *supra* n. 6 (Emphasis added).
[17] *Id.*
[18] *Id.* (Emphasis added).
[19] *Id.*, 447 F. 2d at 1212 n. 34 (Emphasis in original).
[20] Pasadena Broadcasting Co., 555 F.2d at 1052.

crucible of an evidentiary hearing allowing for the introduction of oral testimony and cross-examination. This issue, in turn, brings us back to the fundamental question of comparative standards and criteria. In my judgment, this is, in any case, where we should begin the inquiry on the limits and constraints of the "full hearing" requirement.

The inquiry here should focus on identifying and refining the comparative criteria so that their application may be amendable to a paper process yet fully responsive to the paramount public interest goal of "best practicable service." My fundamental problem with the *Notice's* proposal is that it appears to tilt this endeavor improperly and unnecessarily in favor of expediency (or, less perjoratively, "expedition") and away from the full public interest analysis which I believe both statute and precedent command. The task of developing and justifying a paper comparative process is certainly herculean and may prove ultimately futile. But, a serious attempt by both the Commission and the competing public is clearly called for.

These preliminary observations on paper hearings are also applicable to the *Notice's* apparent penchant for lotteries in "deciding" comparative cases. While a lottery may be an appropriate and lawful alternative in resolving genuinely "deadlocked" comparative proceedings, the Commission cannot evade its responsibility for making refined public interest judgments where that more rational and less arbitrary mode of decision-making is clearing available and applicable. Here, I believe it axiomatic that *resolution by lottery or chance is the very antithesis of the system of rational, principled determination which has been the hallmark of administrative law and process.* As the Supreme Court has so plainly stated:

> Congress has granted applicants a right to a hearing on their applications for station licenses. Whether that is wise policy or whether the procedure adopted by the Commission in this case [which the Court invalidated] is preferable is not for us to decide.[21]

Before the Commission rushes to embrace the "easy out" of lottery, we have a clear statutory obligation to exhaust the search for public interest criteria to distinguish and choose among applicants so as to effectuate the "best practicable service" standard of the Act. Such an effort is the absolute minimum required as a legal and policy predicate for utilizing a lottery in the licensing process, and any attempt to evade the requirement will put in peril the integrity of this Commission's mandate and process.

It is extremely important for the Commission to continue to address these critical issues of comparative criteria and procedure in the course of this rule making proceeding. I urge the fullest public analysis and comment on these concerns.

[21] Ashbacker Radio Corp., 326 U.S. at 333.

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Friday
October 17, 1980

Part VI

Department of Agriculture

Food and Nutrition Service

Unfunded Demonstration Project: New York City's Food Stamp Replacement ATP Issuance Procedure and Rapid Access Reconciliation System

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 282

[Amdt. No. 177]

Unfunded Demonstration Project—New York City's Food Stamp Replacement ATP Issuance Procedure and Rapid Access Reconciliation System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This rulemaking establishes procedures to be in effect upon installation of New York's City's food stamp replacement ATP issuance procedure and Rapid Access Reconciliation System (to be referred to as the Rapid Access System). This project will require the issuance of a replacement food stamp authorization to participate card (ATP) only upon verification that the participant has not already transacted the original ATP, the Rapid Access System will allow New York City to determine whether the original ATP has been transacted and whether the participant requesting a replacement has transacted that ATP.

The system also contains safeguards against persons who request a replacement ATP for a "lost" ATP not yet cashed. Rapid Access provides for an eight-day ATP validity period, with issuance of the replacement ATP within five business days after the loss or theft of the original ATP is reported.

This emergency final rule establishes procedures for the implementation, as an unfunded demonstration project, of New York City's Rapid Access System. The Administrator of the Food and Nutrition Service has determined that an improved replacement ATP issuance procedure is required in New York City as a result of the dimension of the City's duplicate issuance problem. The gravity of New York City's replacement ATP problem necessitates the expeditious implementation of this new system.

DATES: Effective date: October 17, 1980. The Rapid Access System will be implemented citywide on December 1, 1980. However, the New York City Human Resources Administration will implement the lost ATP reporting requirements and the replacement procedures upon publication of this rule. Comments must be received by February 1, 1981, to be assured of consideration.

ADDRESS: Comments should be submitted to: Alberta Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street, S.W., Washington, D.C., Room 603.

FOR FURTHER INFORMATION CONTACT: James I. Porter, Section Chief, Mid-Atlantic/New England Section, State Evaluation Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250 (202–447–4014).

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as not significant.

The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Robert Greenstein, Administrator of the Food and Nutrition Service has determined that an emergency situation exists which warrants publication without opportunity for public comment on this final action because of the need to take prompt action to test and develop an alternate issuance system in New York City that will improve the integrity of the Food Stamp Program by reducing the duplicate issuance of food stamp authorizations.

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 emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited until February 1, 1981, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Introduction

The Department is concerned over Federal dollars being lost in New York City as a result of the duplicate issuance of food stamp ATP's. Latest statistics, from May 1980, show the City issuing 26,377 replacement ATP's with a value of $2,454,267. While many of these replacement requests result from actual loss or theft and are legitimate, a study conducted by the New York City Human Resources Administration indicates that a significant number of the replacement ATP's issued may have been requested fradulently. New York City issues a far larger number of replacement ATP's than any other jurisdiction in the country.

A major reason for the high rate of duplicate issuances in New York City is the City's lack of a system that would allow it to rapidly detect if the original ATP has been transacted when a replacement is requested. As a result, City officials are issuing replacement ATP's based upon participants' requests for replacement and participants' signing an affidavit stating that the original ATP would be returned to the State agency if recovered by the household. However, given the size of the Food Stamp Program in New York City, fraudulent duplicate ATP issuances may not be detected, or if detected, collection or fraud determinations may not be made. In order to prevent fraudulent requests for replacement ATP's it is felt a system must be implemented that would detect a fraudulent request prior to issuance.

New York City's Human Resources Administration (HRA) has taken administrative actions to reduce the number of replacement ATP's. Controls for authorizing replacement ATP's have been tightened and procedures have been implemented which require households requesting a second replacement ATP, or households with a history of duplicate issuance, to pick-up replacement ATP's at either local public assistance or food stamp offices. Despite these actions, New York City is unable to verify the validity of a client's claim that an original ATP was never received or that the original ATP was either lost or stolen after its receipt. A client's signed affidavit of ATP loss or nonreceipt is the only source by which a determination is made to issue a replacement ATP. Only after a replacement ATP has been issued can New York City's HRA determine whether a household redeemed the original ATP it claims it never received or lost.

Under New York City's present ATP reconciliation system, redeemed ATP's are reconciled against authorized issuance at the end of the issuance month. Discrepancies discovered during this reconciliation must be followed up on by a manual review of all the redeemed ATP's. Given the size of the

caseload in New York City, this reconciliation system is not adequate for detecting fraudulent duplicate issuance.

The Rapid Access System is designed to be the keystone of New York City's current efforts to reduce or eliminate the City's duplicate issuance problem. The system will allow the New York City Human Resources Administration to rapidly determine whether the participant requesting a replacement ATP has transacted the original ATP.

The Rapid Access System requires that a participant wait four business days after the expected day of ATP delivery to go to the local certification office to fill out an affidavit reporting the loss. This affidavit constitutes the participant's request for replacement. The certification office will then check a listing of ATP's issued for that office. If no ATP was issued and one should have been, an ATP will be authorized immediately. If the listing indicates that an ATP has been issued to the participant household requesting the replacement, the affidavit will be held in suspense. By the fifth business day following the request for the replacement, the certification office will check a listing of redeemed ATP's which have the same issuance code as the household requesting replacement. This listing is generated for the certification office by the Rapid Access contractor. If a participant's ATP is not on the listing, a replacement ATP will be authorized immediately. Participants whose ATP appears on the listing and who still claim that they did not redeem their ATP will be referred to the City's central Fraud Prevention Unit for a further review of their case. Fare to the Fraud Prevention Unit will be provided by HRA.

The Fraud Prevention Unit will compare the signature of the participant requesting the replacement against the signature on a photocopy of the redeemed ATP. If the signatures match, the replacement request will be denied. The household may then request an immediate review by the Fraud Prevention Unit supervisor, and if still dissatisfied, may request a fair hearing. Every effort will be made to schedule this fair hearing within 30 days of the request.

If the signatures do not match, the Fraud Prevention Unit will examine the photocopy of the redeemed ATP for a reconciliation number. The reconciliation number is written on the back of the ATP by the issuance agent at the time of redemption. The number itself comes from the participant's food stamp identification card. Therefore, if the reconciliation number on the ID card of the participant requesting the replacement is the same as the reconciliation number on the redeemed ATP, the request for replacement will be denied, again, subject to immediate supervisory review. If both the signature and the reconciliation number do not match, a replacement will be authorized by the Fraud Prevention Unit.

Regulatory Variances

Rapid Access differs from current regulations in that it will deny replacement of an ATP when it can be shown that the participant requesting replacement has already signed the original. The system specifically requires a household to wait four business days after the date of expected delivery to report its ATP as lost, stolen or nondelivered.

The four-business-day period will begin on the day of expected delivery. If the participant has any question as to when this waiting period is over he should contact the local certification office. HRA officials would prefer participants to call their local certification office whenever a question arises about when they may fill out a request for replacement. This will reduce traffic in the certification office and avoid unnecessary trips by the participants. Upon receipt of a report from a participant that the original ATP was lost, stolen or not received, the State agency shall have a replacement ATP available for pick-up within five business days following the date of the report of the loss when it is shown that the loss is legitimate.

Another area where the Rapid Access System's replacement issuance procedures are at variance with current regulations concerns the validity period of the ATP. Section 274.2(e)(3) requires that each ATP shall be valid for the entire month of issuance unless the ATP was issued after the 25th of the month. The Rapid Access System limits the validty of the ATP to eight days. The eight-day ATP validity period will prevent a participant from holding the ATP, requesting a replacement, and transacting both the original ATP and a replacement. Under these procedures, replacement will only be made after the original has expired. If a househld does not redeem its ATP within the eight-day validity period, it will receive a replacement immediately upon presentation of the original ATP to the eligibility worker. The ATP will contain an expiration date reflecting the eight-day validity period.

In FNS' review of New York City's Rapid Access proposal, questions arose as to what procedures would be followed if a participant reports both his ATP and food stamp identification card (ID) as lost or stolen. The loss or theft of both may in some instances result in a denial of replacement if the ATP is transacted by using the lost or stolen ID. However, to permit waiver of the identification number match whenever the food stamp identification card was reported as lost or stolen would create a potential area of abuse in the "Rapid Access" system. In order to prevent such abuse and to protect a participant whose ATP and food stamp identification card are stolen, the Department is permitting such persons to obtain immediate replacement for the stolen ATP one time in a 6-month period, provided a police report is filed.

The New York City HRA will issue a notice to participants to enable them to understand the operation of the Rapid Access System. Participants will be informed of the eight-day validity period, and what to do when they do not redeem their ATP within eight days. Also, participants will be made aware of the four-business-day waiting period and how they can determine when they can report their ATP as lost, stolen or non-received and whom they can contact about any questions that arise. HRA will also issue a press release explaining the system and will post notices at all certification offices in New York City. Certification workers will also be required to explain the system to all new applicants and all recertification cases for the next year. These actions are designed to prevent confusion that may occur during implementation of Rapid Access System.

The Department has carefully examined the impact of these procedures upon participants in the New York City Food Stamp Program and concluded it is necessary to test them in light of the sizeable loss that duplicate ATP issuance is causing in New York City. Upon publication of this rule, New York City will implement all aspects of the Rapid Access System except the eight-day validity period. The entire system will be implemented on December 1, 1980. We will evaluate the effect of Rapid Access as it relates to both the reduction in the number of duplicate issuances and its impact on participants.

The authority for installation of this system as a demonstration project in New York City is contained in Section 17(b)(1) of the Food Stamp Act of 1977. Title XIII, Pub. L. 95–113, 91 Stat. 977, Sept. 29, 1977.

Accordingly, Part 282 of the regulations is amended by adding a new § 282.15 to read as follows:

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

§ 282.15 New York City Food Stamp Replacement Issuance Procedures and Rapid Access Reconciliation System.

(a) *General.* This part sets forth the procedures to be operational upon New York City's installation of its Food Stamp Replacement Issuance Procedure and Rapid Access Reconciliation System. This system, to be called "Rapid Access", will be tested as a demonstration project.

(b) *Purpose.* Rapid Access is designed to give New York City a reconciliation system with the means to rapidly ascertain whether a participant requesting replacement of a lost or stolen Authorization to Participate (ATP) has transacted the original ATP and is fraudulently requesting replacement of that ATP. A participant will be able to report non-receipt or loss four business days after the scheduled date of delivery. Replacements will be available within five business days following the report of non-receipt or loss. The system also provides for an eight-day ATP validity period during which the ATP may be redeemed.

(c) *Scope and Applicability.* Rapid Access will be implemented citywide as demonstration project. Only those participating households whose ATP can be proven to have been transacted by that household will actually be denied a replacement ATP. The demonstration project is expected to operate for two years.

(d) *Replacement of a Lost of Stolen ATP.* ATP's will be valid for eight calendar days from the scheduled date of delivery. The expiration date will be marked on the ATP. To allow for possible delays in ATP delivery, participants can only request a replacement after four business days following the scheduled date of delivery.

(1) On or after the fourth business day following the date the ATP was scheduled to be delivered, the particpant may request a replacement ATP at the local certification office by completing an affidavit reporting nonreceipt or loss of his/her ATP.

(2) The local certification office will then check the affidavit against a listing of ATP's that were issued for participants served by that office.

(i) If the listing shows that the participants has not been issued an ATP, the certification office will determine why the ATP was not issued and take appropriate action (i.e., provide immediate authorization for issuance of an ATP, if warranted).

(ii) If the listing shows that the participant was issued an ATP, the certification office will hold the affidavit in suspense for five business days to allow for the original ATP to expire. The participant will be instructed to return to the certification office after the passage of five business days.

(3) By the fifth business day following the date the participant requested the replacement, the certification office will have checked the affidavit against a listing of redeemed ATP's for participants served by that office.

(i) If the participant's ATP is not on the listing, a replacement will be authorized immediately by the certification office.

(ii) If the participant's ATP is on the listing (i.e. the ATP is shown to have been redeemed), the participant will be referred to New York City's central Fraud Prevention Unit.

(4) The Fraud Prevention Unit will compare the signature of the participant requesting the replacement against the signature on a photocopy of the redeemed ATP.

(i) If the signatures match, the replacement request will be denied. The household may then request an immediate review by the Fraud Prevention Unit supervisor. If still dissatisfied, he may request a fair hearing.

(ii) If the signatures do not match, the Fraud Prevention Unit will check a photocopy of the redeemed ATP for the reconciliation number written on the back of the ATP by the issuance agency at the time of redemption. This number is taken from the participant's food stamp identification card.

(A) If the reconciliation number on the identification card of the participant requesting the replacement is the same as the reconciliation number on the redeemed ATP, the request for replacement will be denied, again subject to immediate supervisory review.

(B) If neither the signature nor the reconciliation number match, a replacement will be authorized by the Fraud Prevention Unit.

(5) In instances where a participant reports both his/her ATP and food stamp identification card as stolen and a police report is filed, the requirement that the reconciliation number on the identification card of the participant differ with the reconciliation number on the redeemed ATP will be waived. In this situation, the participant shall receive an immediate replacement for the stolen ATP only one time in a 6-month period.

(e) *Right of Appeal*—Participants being denied a replacement ATP shall be informed of their right of appeal.

(1) When denied a replacement for an ATP reported as lost or stolen, the participant may request an internal supervisory examination of the determination.

(2) If dissatisfied with this review, the participant may request of fair hearing. The State agency shall make every effort to schedule that hearing within 30 days.

(f) *Evaluation of the Rapid Access Demonstration Project*—An evaluation of this project will be conducted by FNS. The purpose of the evaluation will be to ascertain the effect Rapid Access has had on the number of fraudulent duplicate issuances and the effect this system has on participating households.

Authority: 91 Stat. 958 (7 USC 2011–2027)

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

Dated: October 10, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-32624 Filed 10-16-80; 10:04 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Fish and Wildlife Service—

61944 9–17–80 / Determination of potententilla robbinsiana to be an endangered species

List of Public Laws

Last Listing October 16, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 7592 / Pub. L. 96–436 "Military Construction Appropriation Act, 1981". (Oct. 13 1980; 94 Stat. 1863) Price $1.

H.R. 5546 / Pub. L. 96–437 To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes. (Oct. 13 1980; 94 Stat. 1870) Price $1.

S. 985 / Pub. L. 96–438 To amend the Consolidated Farm and Rural Development Act. (Oct. 13 1980; 94 Stat. 1871) Price $1.

H.R. 7779 / Pub. L. 96–439 To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court. (Oct. 13 1980; 94 Stat. 1878) Price $1.

S. 1790 / Pub. L. 96–440 "Privacy Protection Act of 1980". (Oct. 13 1980; 94 Stat. 1879) Price $1.

H.R. 8103 / Pub. L. 96–441 To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively. (Oct. 13 1980; 94 Stat. 1884) Price $1.

H.R. 5048 / Pub. L. 96–442 "Manassas National Battlefield Park Amendments of 1980". (Oct. 13 1980; 94 Stat. 1885) Price $1.

H.J. Res. 568 / Pub. L. 96–443 To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week". (Oct. 13 1980; 94 Stat. 1888) Price $1.

S. 2936 / Pub. L. 96–444 To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate. (Oct. 13 1980; 94 Stat. 1889) Price $1.

H.R. 6440 / Pub. L. 96–445 To establish priorities in the payment of claims against the People's Republic of China. (Oct. 13 1980; 94 Stat. 1891) Price $1.

S. 2185 / Pub. L. 96446 To authorize the acceptance and use of bequests and gifts for disaster relief. (Oct. 13 1980; 94 Stat. 1893) Price $1.

S. 2511 / Pub. L. 96–447 Civil Rights Commission Authorization Act of 1980 (Oct. 13 1980; 94 Stat. 1894) Price $1.

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