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federal register

Friday
August 28, 1981

Highlights

Briefings on How To Use the Federal Register—For details on briefing in **Lexington, Ky.**, see announcement in the **Reader Aids** section at the end of this issue.

43416 **Lead** Labor/OSHA further defers effective date of occupational exposure standards.

43452 **Baby Cribs** CPSC extends comment period on head and neck entrapment hazards.

43466 **Manufactured Homes** HUD/NVACP solicits comments on health effects of formaldehyde outgassing.

43465 **Drugs** HHS/FDA proposes to remove requirement that manufacturers conduct animal studies on cancer and birth defect potential of certain inhalation anesthetic products.

43504 **Energy Assistance** HHS/SSA reallots Low Income Energy Assistance Program funds for 1981.

43636, 43645 **Continental Shelf** Interior/BLM announces Lower Cook Inlet/Shelikof Strait oil and gas lease sale no. 60 and leasing systems. (Part III of this issue) (2 documents)

CONTINUED INSIDE

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.

43417 **Grant Programs—Water Pollution Control** EPA permits States to use FY 1981 project priority lists until additional guidance on funding 1982 wastewater treatment construction grants is issued.

43410 **Agriculture—Credit** FCA issues rules on extension of credit by Federal land banks and production credit associations.

43411 **Securities** SEC amends Regulation S–X on disclosure of maturities of long-term obligations and rescinds certain accounting series releases.

43457 SEC proposes to except special purpose broker-dealers from self-underwriting requirements.

43459 SEC requests comments on revised proposals and possible deregulation of short tendering.

43500 **Business Reports** FTC announces intent to publish 1975 Line of Business ("LB") Annual Report.

43431 **Banks, Banking** FDIC proposes to allow certain parties prevailing against the agency in administrative proceedings to recover litigation expenses.

43429 **Commuter Rail Service** ICC issues interpretation that all current labor contract costs are "reasonable" expenses and must be paid by the subsidizer.

43472 **Maritime Carriers** FMC proposes changing time limit for shippers to file overcharge claims.

43474 FMC proposes to provide for filing of per-container rates.

43413 **Bakery Products** HHS/FDA establishes single-level requirements for iron-enriched flour and bread.

43406 **Meat Inspection** USDA/FSIS requests comments on swine post-mortem inspection procedures and staffing standards.

43482 **Imports** CITA announces restraint level for certain man-made fiber textile products from Macau.

43594 **Minimum Wages** Labor/ESA/W&H publishes minimum wages for Federal and federally assisted construction. (Part II of this issue)

43538 **Sunshine Act Meetings**

Separate Parts of This Issue

43594 **Part II, Labor/ESA/W&H**

43636, 43645 **Part III, Interior/BLM (2 documents)**

Contents

Federal Register
Vol. 46, No. 167
Friday, August 28, 1981

Agricultural Marketing Service
RULES
43371 Lemons grown in Ariz. and Calif.
Milk marketing orders:
43371 St. Louis-Ozarks et al.
PROPOSED RULES
43431 Cauliflower, frozen; grade standards; correction

Agriculture Department
See Agricultural Marketing Service; Food Safety and Inspection Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration.

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
43468 Lancaster Valley, Pa.

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
43483 Procurement list, 1981; additions and deletions (2 documents)

Civil Aeronautics Board
NOTICES
43480 Certificates of public convenience and necessity and foreign air carrier permits (2 documents)
Hearings, etc.:
43480 Cochise Airlines, Inc.; subsidy mail rates
43480 Texasamerican Airways fitness investigation
43480 United Air Lines, Inc.; refund practices
Tariffs:
43480 Charges and rules governing clubs and lounges; exemptions

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
43481 Georgia
43481 Illinois

Commerce Department
See Foreign-Trade Zones Board; National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
PROPOSED RULES
43452 Baby cribs; full and non-full size; neck and head entrapment hazards; extension of time

Defense Department
See Navy Department.

Economic Regulatory Administration
NOTICES
Consent orders:
43484 Fletcher Oil & Refining Co., Inc.
43484 Geer Tank Trucks, Inc.
43485 Newhall Refining Co., Inc.
43486 Southern Union Co. et al.
43487 Texas Oil & Gas Corp.

Employment and Training Administration
NOTICES
Adjustment assistance:
43525 L & R Manufacturing Co.
43525 Lynchburg Foundry Co.
43525 Mayer, Rothkopf Industries, Inc.
43526 Miss Capri Sportswear, Inc., et al.
Unemployment Tax Act; State certifications:
43524 Alabama and Nevada
43524 California et al.; proceedings terminated

Employment Standards Administration
NOTICES
43594 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Del., Fla., Hawaii, Ill., Ky., La., Maine, Mass., Mich., Mo., Mont., Nebr., Pa., Texas, Utah, Va. & Wyo.)

Energy Department
See also Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.
NOTICES
Consent orders:
43490 Farmland Industries, Inc.
International atomic energy agreements; civil uses; subsequent arrangements:
43487, 43488 European Atomic Energy Community (4 documents)

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
43418 Connecticut
43418 Connecticut; correction
43422 Michigan and Ohio
43423 Pennsylvania
43424 Texas
Air quality planning purposes; designation of areas:
43425 Ohio
Grants, State and local assistance:
43417 Wastewater treatment works construction; State project priority lists (PPL); class deviation
PROPOSED RULES
Water pollution control:
43472 State underground injection control program; Texas Department of Water Resources primacy application
NOTICES
Environmental statements; availability, etc.:
43491 Agency statements; weekly receipts
Pesticides; experimental use permit applications:
43492 Dow Chemical USA et al.
Toxic and hazardous substances control:
43492-43495 Premanufacture notification requirements; test marketing exemption approvals (4 documents)

Farm Credit Administration
RULES
43410 Eligibility and scope of financing, and loan policies and operations; credit extensions for basic processing and marketing products, etc.

Federal Communications Commission
PROPOSED RULES
Common carrier services:
43475 Overseas communications services; international voice and record services provided by international record carriers and AT&T; extension of time

Federal Deposit Insurance Corporation
PROPOSED RULES
43431 Practice and procedure rules; Equal Access to Justice Act implementation
NOTICES
43538 Meetings; Sunshine Act

Federal Election Commission
NOTICES
43538 Meetings; Sunshine Act

Federal Maritime Commission
PROPOSED RULES
Tariffs filed by common carriers in foreign commerce of U.S.:
43474 Per-container rates filing; Sea-Land Service, Inc., consideration of petition
Tariffs filed in domestic offshore commerce and by common carries in foreign commerce of U.S.:
43472 Overcharge claims filing; time limit
NOTICES
43495 Agreements filed, etc.

Federal Reserve System
NOTICES
Applications, etc.:
43496 Central Bank Shares, Inc.
43497 Centurion Bancorp, Inc.
43497 Citicorp
43497 First Bank Minneapolis International, Inc.
43497 First City Financial Corp.
43498 Metcalf Bancshares, Inc.
43498 Montgomery County Bancshares, Inc.; correction
43498 Orange County Banking Corp.
43498 S.T.D. Investments, Inc.
43498 Southwest Bancorp, Inc.
43499 United Kansas Bank Group Inc.
Bank holding companies; proposed de novo nonbank activities:
43499 Manufacturers Hanover Corp. et al.

Federal Trade Commission
NOTICES
43500 Line of business reports program; 1975 LB report, annual

Fish and Wildlife Service
NOTICES
Pipeline applications:
43510 Arkansas National Wildlife Refuge, Tex.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
43414 Procaine penicillin G in oil
43415 Selenium
Food additivies:
43414 Diallydiethylammonium chloride polymer; CFR correction
Food for human consumption:
43413 Bakery products and flour; iron fortification; identity standards
PROPOSED RULES
Human drugs:
43465 Inhalation anesthetic drugs; animal carcingoenic and teratogenic studies requirements revoked
NOTICES
Food additives, petitions filed or withdrawn:
43503 R.T. Vanderbilt Co., Inc.
GRAS or prior-sanctioned ingredients:
43503 Olin Chemicals; calcium hypochlorite in live oyster-conditioning water; petition withdrawn
43503 Olin Chemicals; calcium hypochlorite in pota potable water for washing fresh fruits and vegetables; petition withdrawn
Laser variance approvals, etc.:
43500 Bonds International Disclotheque et al.
Meetings:
43502-43503 Consumer information exchange (7 documents)
43504 Skull X-Ray Referral Criteria Panel

Food Safety and Inspection Service
RULES
Meat and poultry inspection, mandatory:
43406 Swine post-mortem inspection staffing standards; interim rule and request for comments

Food Safety and Quality Service
PROPOSED RULES
43431 Cauliflower, frozen; grade standards; correction

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
43481 Michigan

Forest Service
NOTICES
Environmental statements; availability, etc.:
43477 Uinta and Manti-LaSal National Forests, Moon Lake Powerplant Project, Bonanza Unit 1 345 kV transmission lines, corridor location and transmission tower design

General Services Administration
NOTICES
Public utilites; hearings, etc.; proposed intervention:
43500 Georgia Public Service Commission

Health and Human Services Department
See Food and Drug Administration; Social Security Administration.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
43488 Decisions and orders
Remedial orders:
43489 Objections filed

Housing and Urban Development Department
See Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Reclamation Bureau.

Interstate Commerce Commission
RULES
Rail carriers:
43429 Commuter rail service continuation subsidies; determination standards; interpretation
Railroad car service orders; various companies:
43427 Chicago, Rock Island & Pacific Railroad Co.; track use by various railroads
NOTICES
Motor carriers:
43510 Agricultural cooperative transportation; filing notices
43520 Compensated intercorporate hauling operations; intent to engage in
43522 Compensated intercorporate hauling operations; intent to engage in; correction
43510 Finance applications
43522 Fuel costs recovery, expedited procedures
43511, 43512 Permanent authority applications (2 documents)
43522, 43523 Permanent authority applications; operating rights republications (2 documents)
43516, 43519 Permanent authority applications; restriction removals (2 documents)
Organization, functions, and authority delegations:
43510 Public Tariff File; closing
Railroad services abandonment:
43523 Seaboard Coast Line Railroad
43522 Southern Pacific Transportation Co.

Justice Department
See Parole Commission.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.
NOTICES
Adjustment assistance (Editorial note: See entries under Employment and Training Administration)
Unemployment compensation, State laws; hearings:
43527 Delaware et al.
43528 Indiana

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
43505 Cook Inlet Region, Inc.
Classification of lands:
43508 Nevada (2 documents)
Motor vehicles, off-road, etc.; area closures and openings:
43507 Nevada
43636, 43645 Outer Continental Shelf; Lower Cook Inlet/Shelikof Strait; oil and gas lease sale (2 documents)
Survey plat filings:
43508 New Mexico
Wilderness areas; characteristics, inventories, etc.:
43509 Wisconsin and Michigan

Legal Services Corporation
NOTICES
43529 Grants and contracts; applications

Metric Board
NOTICES
43538, 43539 Meetings; Sunshine Act (5 documents)

National Oceanic and Atmospheric Administration
RULES
Marine mammals:
43430 Commercial fishing operations; incidental taking of porpoises in eastern tropical Pacific Ocean tuna purse seine fishing; modification of annual mortality limit apportionment; clarification
NOTICES
Marine mammal permit applications, etc.:
43481 Alaska Department of Fish and Game

National Park Service
PROPOSED RULES
Special regulations:
43471 Fire Island National Seashore, N.Y.; seaplane access designations removed

National Science Foundation
NOTICES
43539 Meetings; Sunshine Act

Navy Department
NOTICES
Meetings:
43483 Chief of Naval Operations Executive Panel Advisory Committee
Senior Executive Service:
43483 Bonus awards
43483 Performance Review Board; membership

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary
PROPOSED RULES
Manufactured home construction and safety standards:
43466 Formaldehyde emissions; advance notice

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
43530 Baltimore Gas & Electric Co.
43530 Consolidated Edison Co. of New York, Inc.
43531 Duke Power Co.
43530 Indiana & Michigan Electric Co.; correction
43531 Power Authority of State of New York
43531 Wisconsin Electric Power Co.
43539 Meetings; Sunshine Act

Occupational Safety and Health Administration
RULES
Health and safety standards:
43416 Lead; occupational exposure standards; deferral of effective date

Parole Commission
NOTICES
43539, 43540 Meetings; Sunshine Act (2 documents)

Pension Benefit Guaranty Corporation
NOTICES
Multiemployer pension plans; bond/escrow exemption request:
43531 Woolco Fashionwear Corp.

Personnel Management Office
RULES
43371 General Schedule, within-grade and quality step increase; and merit pay system; clarification of definitions, etc.; correction

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
43509 Creston Steam Electric Station, Creston, Wash.

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
43477 Brazos Electric Power Cooperative, Inc.
43478 Loup Valleys Rural Public Power District of Ord, Nebr.
Loan guarantees, proposed:
43479 French Broad Electric Membership Corp.
43478 Garkane Power Association, Inc.
43478 Lower Valley Power & Light, Inc.
43479 Seminole Electric Cooperative, Inc.
43479 Vermont Electric Cooperative, Inc.

Securities and Exchange Commission
RULES
Financial statements:
43411 Long-term obligations maturities disclosure (Regulation S-X), and rescission of obsolete accounting series releases
PROPOSED RULES
43459 Securities; short tendering
43457 Self-underwriting by nonmember brokers or dealers
NOTICES
Hearings, etc.:
43532 Alpha Cash Management Fund, Inc.
43540 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
43536 American Stock Exchange, Inc.
43534 National Securities Clearing Corp.
43535 Options Clearing Corp.
43536 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
43533 Cincinnati Stock Exchange

Social Security Administration
NOTICES
43504 Low income energy assistance program; 1981 reallotment of funds

Tennessee Valley Authority
NOTICES
43540 Meetings; Sunshine Act

Textile Agreements Implementation Committee
NOTICES
Man-made textiles:
43482 Macau

Treasury Department
See Alcohol, Tobacco and Firearms Bureau.

MEETINGS ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
43481 Georgia Advisory Committee, Atlanta, Ga. (open), 9-24-81
43481 Illinois Advisory Committee, Chicago, Ill. (open), 9-28-81

DEFENSE DEPARTMENT
Navy Department—
43483 Chief of Naval Operations Executive Panel Advisory Committee, Science and Technology Sub-Panel, Alexandria, Va. (closed), 9-24 and 9-25-81

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
Consumer participation (all sessions open) (7 documents):
43502 Milwaukee, Wis., 9-15-81;
43502 Lansing, Mich., 9-16-81;
43502 Tucson, Ariz., 9-17-81;
43502 New York, N.Y., 9-23-81;
43503 Las Vegas, Nev., 9-24-81;
43503 Barnstable, Mass., 9-25-81;
43502 San Francisco, Calif., 9-29-81
43504 Skull X-Ray Referral Criteria Panel, Bethesda, Md. (partially open), 9-14 and 9-15-81

HEARINGS

LABOR DEPARTMENT
Office of the Secretary—
43528 Indiana Employment Security Board, Washington, D.C., 9-17-81
43527 Unemployment compensation agencies (various states), Washington, D.C., 9-16-81

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
531 43371

7 CFR
910 43371
1007 43371
1011 43371
1030 43371
1032 43371
1046 43371
1049 43371
1050 43371
1062 43371
1064 43371
1065 43371
1068 43371
1071 43371
1073 43371
1076 43371
1079 43371
1094 43371
1096 43371
1097 43371
1098 43371
1099 43371
1102 43371
1104 43371
1106 43371
1108 43371
1120 43371
1126 43371
1131 43371
1132 43371
1138 43371

Proposed Rules:
2852 43431

9 CFR
307 43406
310 43406

12 CFR
613 43410
614 43410

Proposed Rules:
308 43431

16 CFR

Proposed Rules:
1508 43452
1509 43452

17 CFR
210 43411
211 43411

Proposed Rules:
240 (2 documents) 43457, 43459

21 CFR
136 43413
137 43413
176 43414
540 43414
573 43415

Proposed Rules:
310 43465

24 CFR

Proposed Rules:
3280 43466

27 CFR

Proposed Rules:
9 43468

29 CFR
1910 43416

36 CFR

Proposed Rules:
7 43471

40 CFR
35 43417
52 (5 documents) 43418–43424
81 43425

Proposed Rules:
122 43472
123 43472
124 43472
146 43472

46 CFR

Proposed Rules:
531 43472
536 (2 documents) 43472, 43474

47 CFR

Proposed Rules:
Ch. I 43475

49 CFR
1033 43427
1127 43429

50 CFR
216 43430

Rules and Regulations

Federal Register
Vol. 46, No. 167
Friday, August 28, 1981

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Pay Under the General Schedule; Merit Pay System

Corrections

In FR Doc. 81-23662 appearing at page 41019 in the issue of Friday, August 14, 1981, make the following changes:

1. On page 41019, third column, § 531.406(a), first line, "Civil" should read "Civilian".

2. On page 41020, first column, § 531.411, tenth line, "acceptance" should read "acceptable".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 320; Lemon Regulation 319, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period August 30–September 5, 1981, and increases the quantity of lemons that may be shipped during the period August 23–29, 1981. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective August 30, 1981, and the amendment is effective for the period August 23–29, 1981.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are 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 available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 25, 1981, 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 weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. 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 times.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

1. Section 910.620 is added as follows:

§ 910.620 Lemon Regulation 320.

The quantity of lemons grown in California and Arizona which may be handled during the period August 30, 1981, through September 5, 1981, is established at 237,473 cartons.

2. Section 910.619, *Lemon Regulation 319* (46 FR 42441, is revised to read as follows:

§ 910.619 Lemon Regulation 319.

The quantity of lemons grown in California and Arizona which may be handled during the period August 23, 1981, through August 29, 1981, is established at 237,500 cartons.

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

Dated: August 27, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-25418 Filed 8-27-81; 11:51 p.m.]

BILLING CODE 3410-02-M

7 CFR Parts 1007, 1011, 1030, 1032, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1076, 1079, 1094, 1096, 1097, 1098, 1099, 1102, 1104, 1106, 1108, 1120, 1126, 1131, 1132 and 1138

[Docket Nos. AO-10-A54, et al.]

Milk in the St. Louis-Ozarks and Certain Other Marketing Areas; Order Amending Orders

7 CFR Part	Marketing area	AO Numbers
1062	St. Louis-Ozarks	AO-10-A54.
1007	Georgia	AO-366-A17.
1011	Tennessee Valley	AO-251-A22-RO1.
1030	Chicago Regional	AO-361-A18.
1032	Southern Illinois	AO-313-A31.

7 CFR Part	Marketing area	AO Numbers
1046	Louisville-Lexington-Evansville	AO-123-A47.
1049	Indiana	AO-319-A31.
1050	Central Illinois	AO-355-A21.
1064	Greater Kansas City	AO-23-A53.
1065	Nebraska-Western Iowa	AO-88-A40.
1068	Upper Midwest	AO-178-A36.
1071	Neosho Valley	AO-227-A35-RO1.
1073	Wichita, Kansas	AO-173-A37-RO1.
1076	Eastern South Dakota	AO-260-A25.
1079	Iowa	AO-295-A34.
1094	New Orleans-Mississippi	AO-103-A41.
1096	Greater Louisiana	AO-257-A29.
1097	Memphis, Tennessee	AO-219-A37.
1098	Nashville, Tennessee	AO-184-A42.
1099	Paducah, Kentucky	AO-183-A37.
1102	Fort Smith, Arkansas	AO-237-A31.
1104	Red River Valley	AO-296-A30-RO1.
1106	Oklahoma Metropolitan	AO-210-A43-RO1.
1108	Central Arkansas	AO-243-A35.
1120	Lubbock-Plainview	AO-328-A23.
1126	Texas	AO-231-A48-RO1.
1131	Central Arizona	AO-271-A23.
1132	Texas Panhandle	AO-262-A33.
1138	Rio Grande Valley	AO-335-A28.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes a new procedure for announcing Class II prices under the 29 milk orders in this proceeding. A tentative Class II price for a particular month would be announced by the 15th day of the preceding month. The final Class II price for the month would be announced by the 5th day after the month and would reflect, if applicable, the use of the Class III price for that month as a "floor" under the Class II price. This action replaces a procedure under which Class II prices for a month had been announced by the 5th day after the month. The amendments are based on industry proposals considered at a public hearing held on August 12–14, 1980.

EFFECTIVE DATE: September 1, 1981.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued July 10, 1980; published July 15, 1980 (45 FR 47432).

Supplemental Notice of Hearing: Issued July 21, 1980; published July 25, 1980 (45 FR 49584).

Recommended Decision: Issued February 11, 1981; published February 18, 1981 (46 FR 12709).

Extension of Time: Issued March 9, 1981; published March 12, 1981 (46 FR 16270).

Extension of Time: Issued March 19, 1981; published March 25, 1981 (46 FR 18558).

Final Decision: Issued July 8, 1981; published July 14, 1981 (46 FR 36151).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the aforesaid marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the respective orders effective not later than September 1, 1981.

In an action against the Department (*American Dairy of Evansville, Inc., et al.*, v. *Robert Bergland, Secretary of Agriculture, et al.*), the U.S. Appeals Court of the District of Columbia Circuit ruled that the Class II price announcement procedure in the 29 orders was legally invalid due to inadequate findings when the procedure was established in the orders. The Court ordered the Department to establish on the basis of further rulemaking procedures a method for announcing Class II prices. This order fulfills the Department's responsibilities in this matter.

The provisions of the order are known to handlers. The decision of the Assistant Secretary for Marketing and Inspection Services containing all amendment provisions of this order was issued July 8, 1981. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the respective orders effective September 1, 1981, and that it would be contrary to the public interest to delay the effective date of the amended orders for 30 days after their publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of the order amending the orders (except the Red River Valley marketing area) is approved or favored by at least two-thirds of the producers, as defined under the terms of each of the orders who during the determined representative period were engaged in the production of milk for sale within the respective marketing areas;

(4) Further, the issuance of the order amending orders for the Memphis, Tennessee marketing area and the Ft. Smith, Arkansas marketing area is approved by more than three-fourths of the producers who during January 1981, the representative month, were engaged in the production of milk for sale in each of the above marketing areas; and

(5) The issuance of the order, as amended, regulating the handling of milk in the Red River Valley marketing area is approved or favored by at least two-thirds of the producers, as defined

under the terms of the order, who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the Red River Valley marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

PART 1062—MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

1. Section 1062.19 is added and reserved and a new § 1062.20 is added to read as follows:

§ 1062.19 [Reserved]

§ 1062.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1062.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of the section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central State production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1062.50(b) is revised to read as follows:

§ 1062.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1062.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1062.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1062.51a.

* * * * *

3. A new § 1062.51a is added to read as follows:

§ 1062.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1062.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1062.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundred-

weight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1062.53 is revised to read as follows:

§ 1062.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. A new § 1007.20 is added to read as follows:

§ 1007.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1007.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1007.50(b) is revised to read as follows:

§ 1007.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1007.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1007.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1007.51a.

* * * * *

3. A new § 1007.51a is added to read as follows:

§ 1007.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1007.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using

price data determined pursuant to § 1007.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1007.53 is revised to read as follows:

§ 1007.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. Section 1011.19 is added and reserved and a new § 1011.20 is added to read as follows:

§ 1011.19 [Reserved]

§ 1011.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1011.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92–score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1011.50(b) is revised to read as follows:

§ 1011.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before

the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1011.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1011.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1011.51a.

* * * * *

3. A new § 1011.51a is added to read as follows:

§ 1011.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1011.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1011.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfact dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1011.53 is revised to read as follows:

§ 1011.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. A new § 1030.20 is added to read as follows:

§ 1030.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1030.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such

average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1030.50(b) is revised to read as follows:

§ 1030.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1030.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1030.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1030.51a.

* * * * *

3. A new § 1030.51a is added to read as follows:

§ 1030.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1030.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1030.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1030.53 is revised to read as follows:

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

1. A new § 1032.20 is added to read as follows:

§ 1032.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1032.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week

shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1032.50(b) is revised to read as follows:

§ 1032.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1032.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1032.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1032.51a.

* * * * *

3. A new § 1032.51a is added to read as follows:

§ 1032.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1032.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1032.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used in the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacturer butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1032.53 is revised to read as follows:

§ 1032.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following months, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.19 is added and reserved and a new § 1046.20 is added to read as follows:

§ 1046.19 [Reserved]

§ 1046.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1046.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1046.50(b) is revised to read as follows:

§ 1046.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1046.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1046.51 and add 10 cents; and

(2) Determine for the same 12-month priod as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1046.51a.

* * * * *

3. A new § 1046.51a is added to read as follows:

§ 1046.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1046.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1046.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for

the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1046.53 is revised to read as follows:

§ 1046.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. Section 1049.19 is added and reserved and a new § 1049.20 is added to read as follows:

§ 1049.19 [Reserved]

§ 1049.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1049.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following workday until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1049.50(b) is revised to read as follows:

§ 1049.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tenative Class II price shall be the basic Class II formula price computed pursuant to § 1049.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1049.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1049.51a.

* * * * *

3. A new § 1049.51a is added to read as follows:

§ 1049.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1049.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using

price data determine pursuant to § 1049.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1049.53 is revised to read as follows:

§ 1049.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. A new § 1050.20 is added to read as follows:

§ 1050.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1050.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1050.50(b) is revised to read as follows:

§ 1050.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic

Class II formula price computed pursuant to § 1050.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1050.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1050.51a.

* * * * *

3. A new § 1050.51a is added to read as follows:

§ 1050.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1050.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1050.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1050.53 is revised to read as follows:

§ 1050.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. Section 1064.19 is added and reserved and a new § 1064.20 is added to read as follows:

§ 1064.19 [Reserved]

§ 1064.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1064.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays.

For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1064.50(b) is revised to read as follows:

§ 1064.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1064.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1064.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1064.51a.

* * * * *

3. A new § 1064.51a is added to read as follows:

§ 1064.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1064.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1064.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross value for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1064.53 is revised to read as follows:

§ 1064.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. Section 1065.19 is added and reserved and a new § 1065.20 is added to read as follows:

§ 1065.19 [Reserved]

§ 1065.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1065.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following

work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

2. Section 1065.50(b) is revised to read as follows:

§ 1065.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1065.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to §1065.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1065.51a.

* * * * *

3. A new § 1065.51a is added to read as follows:

§ 1065.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1065.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1065.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture chedddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative

proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1065.53 is revised to read as follows:

§ 1065.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. Section 1068.19 is added and reserved and a new § 1068.20 is added to read as follows:

§ 1068.19 [Reserved]

§ 1068.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1068.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1068.50(b) is revised to read as follows:

§ 1068.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1068.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1068.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1068.51a.

* * * * *

3. A new § 1068.51a is added to read as follows:

§ 1068.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1068.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1068.20 and yield factors in effect under the Diary Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of

milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1068.53 is revised to read as follows:

§ 1068.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1071—MILK IN THE NEOSHO VALLEY MARKETING AREA

1. A new § 1071.20 is added to read as follows:

§ 1071.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1071.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1071.50(b) is revised to read as follows:

§ 1071.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1071.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1071.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1071.51a.

* * * * *

3. A new § 1071.51a is added to read as follows:

§ 1071.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1071.51 for the second preceding month plus or minus the amount computed pursuant to

paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1071.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations.

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1071.53 is revised to read as follows:

§ 1071.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1073—MILK IN THE WICHITA, KANSAS MARKETING AREA

1. Section 1073.19 is added and reserved and a new § 1073.20 is added to read as follows:

§ 1073.19 [Reserved]

§ 1073.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1073.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each proceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

2. Section 1073.50(b) is revised to read as follows:

§ 1073.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1073.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1073.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1073.51a.

* * * * *

3. A new § 1073.51a is added to read as follows:

§ 1073.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1073.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1073.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1073.53 is revised to read as follows:

§ 1073.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

1. Section 1076.19 is added and reserved and a new § 1076.20 is added to read as follows:

§ 1076.19 [Reserved]

§ 1076.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1076.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and

Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1076.50(b) is revised to read as follows:

§ 1076.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1076.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1076.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1076.51a.

* * * * *

3. A new § 1076.51a is added to read as follows:

§ 1076.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1076.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1076.20 and yield factor in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used in the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1076.53 is revised to read as follows:

§ 1076.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1079—MILK IN THE IOWA MARKETING AREA

1. Section 1079.19 is added and reserved and a new § 1079.20 is added to read as follows:

§ 1079.19 [Reserved]

§ 1079.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1079.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the

price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1079.50(b) is revised to read as follows:

§ 1079.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1079.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1079.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1079.51a.

* * * * *

3. A new § 1079.51a is added to read as follows:

§ 1079.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1079.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1079.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determned pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per

hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1079.53 is revised to read as follows:

§ 1079.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. Section 1094.19 is added and reserved and a new § 1094.20 is added to read as follows:

§ 1094.19 [Reserved]

§ 1094.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1094.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which their is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central Sates production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1094.50(b) is revised to read as follows:

§ 1094.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1094.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1094.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1094.51a.

* * * * *

3. A new § 1094.51a is added to read as follows:

§ 1094.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1094.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1094.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1094.53 is revised to read as follows:

§ 1094.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following months, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

1. Section 1096.19 is added and reserved and a new § 1096.20 is added to read as follows:

§ 1096.19 [Reserved]

§ 1096.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1096.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1096.50(b) is revised to read as follows:

§ 1096.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1096.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1096.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1096.51a.

* * * * *

3. A new § 1096.51a is added as follows:

§ 1096.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1096.51 for the second preceding month plus or

minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1096.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1096.53 is revised to read as follows:

§ 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

1. Section 1097.19 is added and reserved and a new § 1097.20 is added to read as follows:

§ 1097.19 [Reserved]

§ 1097.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1097.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1097.50(b) is revised to read as follows:

§ 1097.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1097.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1097.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1097.51a.

* * * * *

3. A new § 1097.51a is added to read as follows:

§ 1097.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1097.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1097.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacturer butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1097.53 is revised to read as follows:

§ 1097.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1098—MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

1. Section 1098.19 is added and reserved and a new § 1098.20 is added to read as follows:

§ 1098.19 [Reserved]

§ 1098.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1098.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed

by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1098.50(b) is revised to read as follows:

§ 1098.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1098.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1098.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1098.51a.

* * * * *

3. A new § 1098.51a is added to read as follows:

§ 1098.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1098.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1098.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1098.53 is revised to read as follows:

§ 1098.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

1. Section 1099.19 is added and reserved and a new § 1099.20 is added to read as follows:

§ 1099.19 [Reserved]

§ 1099.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1099.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The

prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

2. Section 1099.50(b) is revised to read as follows:

§ 1099.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1099.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to §1099.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1099.51a.

* * * * *

3. A new § 1099.51a is added to read as follows:

§ 1099.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1099.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1099.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program

for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1099.53 is revised to read as follows:

§ 1099.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1102—MILK IN THE FORT SMITH, ARKANSAS MARKETING AREA

1. Section 1102.19 is added and reserved and a new § 1102.20 is added to read as follows:

§ 1102.19 [Reserved]

§ 1102.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1102.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92–score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat, and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1102.50(b) is revised to read as follows:

§ 1102.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1102.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1102.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1102.51a.

* * * * *

3. A new § 1102.51a is added to read as follows:

§ 1102.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1102.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1102.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall

be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacturer butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1102.53 is revised to read as follows:

§ 1102.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.53 is revised to read as follows:

§ 1104.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. A new § 1106.20 is added to read as follows:

§ 1106.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1106.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1106.50(b) is revised to read as follows:

§ 1106.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1106.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month

after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1106.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1106.51a.

* * * * *

3. A new § 1106.51a is added to read as follows:

§ 1106.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1106.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1106.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1106.53 is revised to read as follows:

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.19 is added and reserved and a new § 1108.20 is added to read as follows:

§ 1108.19 [Reserved]

§ 1108.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1108.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A

work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of the section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1108.50(b) is revised to read as follows:

§ 1108.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1108.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1108.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1108.51a.

* * * * *

3. A new § 1108.51a is added to read as follows:

§ 1108.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1108.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1108.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1108.53 is revised to read as follows:

§ 1108.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEXAS MARKETING AREA

1. A new § 1120.20 is added to read as follows:

§ 1120.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1120.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Diary Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average,

for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Diary Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1120.50(b) is revised to read as follows:

§ 1120.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1120.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1120.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1120.51a.

* * * * *

3. A new § 1120.51a is added to read as follows:

§ 1120.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1120.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1120.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacturer butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1120.53 is revised to read as follows:

§ 1120.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following months, the Class III price for the preceding month and, for each month after the first month in which this

section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. A new § 1126.20 is added to read as follows:

§ 1126.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1126.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1126.50(b) is revised to read as follows:

§ 1126.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1126.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1126.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1126.51a.

* * * * *

3. A new § 1126.51a is added to read as follows:

§ 1126.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1126.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1126.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in

each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1126.53 is revised to read as follows:

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. Section 1131.19 is added and reserved and a new § 1131.20 is added to read as follows:

§ 1131.19 [Reserved]

§ 1131.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1131.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

2. Section 1131.50(b) is revised to read as follows:

§ 1131.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1131.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to §1131.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1131.51a.

* * * * *

3. A new § 1131.51a is added to read as follows:

§ 1131.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1131.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1131.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the qualtity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1131.53 is revised to read as follows:

§ 1131.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. Section 1132.19 is added and reserved and a new § 1132.20 is added to read as follows:

§ 1132.19 [Reserved]

§ 1132.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1132.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1132.50(b) is revised to read as follows:

§ 1132.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1132.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this

section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1132.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (round to the nearest cent) of the basic Class II formula prices computed pursuant to § 1132.51a.

* * * * *

3. A new § 1132.51a is added to read as follows:

§ 1132.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1132.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1132.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfact component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used in the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1132.53 is revised to read as follows:

§ 1132.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. A new § 1138.20 is added to read as follows:

§ 1138.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1138.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of the section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central State production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1138.50(b) is revised to read as follows:

§ 1138.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1138.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that, for each month after the first month in which this paragraph is effective, the final Class II price shall be not less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1138.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1138.51a.

* * * * *

3. A new § 1138.51a is added to read as follows:

§ 1138.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1138.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1138.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1138.53 is revised to read as follows:

§ 1138.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and, for each month after the first month in which this section is effective, the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

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

Effective Date: September 1, 1981.

Signed at Washington, D.C., on August 25, 1981.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

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Food Safety and Inspection Service [1]

9 CFR Parts 307 and 310

[Docket No. 81-027 I]

Swine Post-Mortem Inspection Procedures and Staffing Standards

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations, on an interim basis, and requesting comments on the rule prior to taking any

[1] Pursuant to the reorganizational plans outlined in USDA Secretary's Memo 1000-1, issued June 17, 1981, the Food Safety and Quality Service has become the Food Safety and Inspection Service. A notice detailing the Agency's reorganization is now being drafted for later publication.

final action in the matter. The interim rule establishes new swine post-mortem inspection staffing standards and additional related swine facility requirements. The swine post-mortem staffing standards are based on changes in the inspection procedure and new work measurement data developed for these revised procedures. The new staffing standards will result in an increase in Agency productivity in swine inspection with no loss of inspection effectiveness. These rules are being implemented on an interim basis without a prior proposal because of the immediate need of FSIS to achieve greater labor efficiency in order to meet its inspectional responsibilities within its mandated appropriations and personnel limitations. It is also being published for comment as a means to provide full public participation in the rulemaking process prior to promulgation of a final rule.

DATES: Interim rule effective August 28, 1981; comments must be received on or before October 27, 1981.

ADDRESS: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

Effect on Small Entities

Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it does not affect post-mortem inspection operations conducted in establishments operated by small entities, and it is not anticipated there would be a significant impact on any other small entity as the result of this rule.

Comments

Interested persons are invited to submit written comments concerning these interim amendments. Comments must be sent in duplicate to the Regulations Coordination Division and should bear reference to the docket number located in the heading of this document. Comments submitted pursuant to this document will be made available for public inspection in the Regulations Coordination Division between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) requires, among other things, the Secretary of Agriculture, through appointed inspectors, to carry out a post-mortem examination of the carcasses and parts of certain domestic food animals, inlcuding swine, when they are slaughtered in an official establishment which is subject to inspection under the Act. The post-mortem inspection involves an examination by one or more trained food inspectors, under veterinary supervision, of the head, viscera (internal organs), and other parts of the carcass of each animal slaughtered, for the purpose of detecting disease or other conditions which could render the carcass or any part of the carcass unfit for human food or otherwise adulterated. In performing the examination, the inspectors follow standardized inspection procedures and initiate appropriate actions consistent with their findings. The procedures are designed to provide assurance that only wholesome and otherwise not adultered carcasses and parts are passed for human food.

Post-mortem inspection requires an appreciable portion of the budget of the Agency's meat and poultry inspection program. Therefore, the Agency's ongoing responsibility for efficient utilization of its resources is especially important with respect to post-mortem inspection. A failure to use the most efficient post-mortem inspection procedures and staffing standards could result in costs to the public which are significantly higher than necessary. For reasons explained below, FSIS has determined that efficiencies are achievable in the post-mortem inspection of swine with no loss in consumer protection.

On July 14, 1981, FSIS published in the **Federal Register** (46 FR 36113) an interim rule, effective immediately, establishing new cattle post-mortem inspection staffing standards. In that document, the Administrator indicated that new swine post-mortem inspection procedures and staffing standards had been developed which would be published in a separate document in the near future. This document contains those procedures and standards.

Swine Inspection

The existing swine post-mortem inspection procedures, with only minor changes, have been in use since at least the early 1930's. Since that time, the incidence of disease found during inspection has changed. For this reason, it was thought that improved procedures might be developed which would be just as effective in detecting disease conditions and other conditions relating to adulteration and still be more productive. It is apparent that such improved procedures could achieve a substantial labor savings with economic benefits to the public and to industry. Therefore, in 1980 and early 1981, FSIS conducted studies comparing the effectiveness of the current swine post-mortem inspection procedures to newer modified procedures. The new procedures were found to be equally effective and more efficient than the present ones, thereby offering some significant potential labor savings. Two studies were completed in the development of the new procedures: "A Study on the Effectiveness of Current and Proposed Swine Post-Mortem Inspection" and "A Study on the Applicability of Proposed Swine Post-Mortem Inspection to Sows/Boars." Copies of these studies may be obtained without charge by writing to: Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

1. *New Swine Inspection Procedures.* Establishments slaughter swine at production rates which meet their own requirements, and FSIS assigns sufficient inspectors to carry out inspection at whatever production rates the establishment determines desirable. In establishments where the production rate is low, one inspector can perform all the necessary examinations. In establishments where the production rate is higher, two or more inspectors

are needed. In establishments using three or more inspectors, the inspection work is subdivided, so that one or more inspectors examine heads, one or more examine viscera, and one or more examine carcasses. Most higher speed establishment layouts provide for the inspection of the head while it is still attached to the carcass. A few do not, and the inspection manpower required for such establishments is slightly different. In this interim rule, the new staffing standards and facility requirements relate solely to operations with three or more inspectors in which the swine head is still attached at inspection.

The present method of inspection at the head inspection station includes, as one element of inspection, turning the carcass to observe the back and both sides. The inspector is looking for skin lesions, such as abscesses, wounds, and dermatitis, and for dressing errors such as hair, dirt, and other contaminants. However, because the carcass inspector will be able to look at the back and sides of the carcass in the new procedures, the head inspector will be relieved of this responsibility.

At the viscera inspection station, the current procedures require, among other things, that the inspector observe and palpate (feel) the spleen, liver, mediastinal lymph nodes, lungs, and heart. Over the years the Department has developed a more extensive understanding concerning the nature and indicia of the diseases and conditions that affect these organs. In the new procedures, the inspector is only required to observe these organs. The reasons for these particular changes are as follows: Splenic pathology, such as tuberculosis or abscesses, is readily visible. Because of the thinness of swine livers, liver lesions, such as abscesses, are not buried in the swine liver, as they frequently are in the much thicker bovine liver, and, thus, are readily observable. Inflammatory processes and general diseases of lungs and mediastinal nodes result in a swelling which can be visually detected. Lastly, swine hearts have been palpated chiefly to detect lesions of the larval form of *Taenia solium*, a tapeworm which is infectious to man, but which has an extremely low incidence in this country (six cases last fiscal year in 90 million swine). However, experience has shown that the presence of this tapeworm is accompanied by extensive lesions in the tissues it involves, which can be easily diagnosed by sight alone.

At the carcass inspection station, the current procedures require the inspector to turn the carcass to observe all sides unless the establishment has provided a mirror to see the back of the hog. The new procedures require the use of a mirror, thus increasing the inspector's productivity.

2. *Comparison Tests.* The comparison test of the current procedures and the new procedures was conducted on butcher hogs in four plants. One week before the test, veterinary training officers entered each plant to teach the inspectors stationed there the new procedures. Five sites on the slaughter floor were selected to assure an adequate evaluation of the effectiveness of each inspection procedure evaluated. In total, 24,000 samples were evaluated, 6,000 from each plant, 400 from each evaluation site on each of 3 days. Half of the samples were inspected under the current procedures and half were inspected under the new procedures. The evaluation was in terms of the percent of units evaluated which were free of errors. The results of this test showed that the new procedures are as effective as the current procedures.

The new procedures were also assessed by the Departmental experts for effectiveness in detecting disease or other conditions which occur too rarely to be quantifiably evaluated on a test such as the one described, but which can have direct adverse effects on public health. The pork tapeworm, previously described, is an example of such a condition. To determine if the new procedures are as effective for these conditions, professional judgment must be used based on knowledge of the veterinary pathology, the nature of the disease or other noxious conditions, and years of experience with inspection under packinghouse conditions. It was determined by the departmental experts that the new procedures are as effective as the current ones.

The other comparison test was conducted on sows and boars in one plant, using 10,000 samples. The test methods used were very similar, and the results were also similar; i.e., the test results showed that the new procedures are found to be as effective as the current ones and more productive.

3. *The Gain in Productivity.* FSIS uses work measurement-based standards in order to determine the appropriate maximum amount of work which an inspector can be expected to perform without a decline in the quality of his/her performance or detriment to his/her health. Such standards are developed by standardizing the job to be performed, having an experienced industrial engineer study and prescribe the most efficient physical motions to accomplish the inspection by the standard method, and then perform a time study to determine the time required to complete the inspection task.

In the case of the new swine procedures under discussion herein, work measurement showed them to be more efficient. For example, using the current inspection procedures, three inspectors (one head inspector, one viscera inspector, and one carcass inspector) can inspect up to 337 butcher hogs per hour. Using the new procedures, three inspectors can inspect up to 506 butcher hogs per hour, a 50.15 percent gain in productivity. Similar or higher gains in productivity are achievable where slaughter rates require more than three inspectors. The swine post-mortem inspection rate study, titled "Market Hogs and Sows/Boars Study Work Measurement Standards," may also be obtained without charge by writing to Dr. Prucha at the previously given address.

4. *Impact on Establishments of Adopting the New Procedures.* The new procedures will have no immediate impact on establishments which do not require three or more inspectors and where the swine heads are not inspected while still attached to the carcasses. Although the new procedures appear to permit some inspection productivity improvement in the remaining types of swine slaughter establishments also, additional work measurement studies are required to determine the most efficient facilities requirements and job combinations. FSIS intends to extend the rules to these classes of establishments when such additional studies are completed.

In order to utilize the new line speed, each presently affected establishment will be required to install a distortion-free glass mirror, measuring 5 feet by 5 feet, at the carcass inspection station. Including installation, FSIS estimates that such a mirror may entail a one-time cost of not more than $1,000. Some establishments already have mirrors. However, many of these mirrors are too small, are of the wrong material (such as stainless steel, which has relatively poor reflective qualities), or are not mounted correctly.

Establishments in which USDA inspectors work must provide certain facilities to the inspectors, such as work stations on the line, lighting, handwashing facilities, etc. While some of these facility requirements are detailed in the regulations, others are more generally referenced. The blueprint review and approval process, when establishments apply for inspection or apply to modify existing facilities, has resulted in uniform interpretation of those general requirements. Since

certain of these general facility requirements with regard to slaughter inspection are so closely related to staffing standards, they are being detailed in this interim rule as a convenience to establishments or other interested persons, and to allow for public comment. The amendments, with respect to facility requirements, make no change in the requirements currently being applied in federally inspected establishments, except for the above mentioned mirror.

Establishments may also experience substantial ongoing cost savings through implementation of the new staffing standards. For some slaughter rates, fewer inspectors will be required under the new staffing standards, which means that less space along the slaughter line will need to be set aside for the use of inspectors. Fewer inspectors also means that in overtime situations, when the establishment must reimburse FSIS for the overtime, the cost will be lower. Also, the line speed can be increased without an increase in the number of inspectors and a consequent need to change the inspection layout or, alternatively, to work overtime to produce the total quantity of meat required.

Need for Interim Rule

The Agency finds that it must take the unusual action of implementing these amendments on an interim basis effective immediately in view of its own personnel shortages. Because of the need to reduce Federal spending and the resulting government-wide restrictions on hiring, the Agency must act expeditiously to make the most efficient use of its existing personnel.

Therefore, the Administrator has determined that the following changes in the regulations must be adopted as an interim final rule. Some establishments may not wish to invest in the mirror required for these rule changes on the basis of an interim, rather than a permanent, rule. They will not be forced to do so, but will be required to operate under the present staffing standards line speeds, and inspection procedures pending final action on the permanent rule. Even after discounting for such establishments, it is estimated that the interim rule will have the effect of reducing the staffing requirement for swine inspection by approximately 111 positions nationwide. Since the meat and poultry inspection program is already experiencing personnel shortages in many areas, it is anticipated that implementation of the interim rule will have the effect of releasing some inspectors now required for swine post-mortem inspection so that they may be utilized for other essential inspection activities, such as staffing positions with critical shortages and new inspection positions where industry production increases. In taking this action, the administrator is mindful that, in the current volatile economic climate, establishments are going in and out of business and expanding and contracting. FSIS must be able to react to these needs. Due to appropriation and manpower restraints imposed on the Agency, FSIS cannot meet its inspectional responsibilities, even in the short term, without this immediate revision of the current swine post-mortem inspection procedures and staffing standards and related facility requirements.

In a number of establishments, a mirror meeting the facility requirements is already properly mounted. The interim regulations will affect those establishments immediately. Other establishments will need a period of time to acquire and/or mount such a mirror, or may opt not to invest in this facility change. The interim regulations will be applied to each establishment whenever it makes this facility change.

Accordingly, §§ 307.2 and 310.1 of the Federal meat inspection regulations (9 CFR 307.2 and 310.1) are amended as follows:

PART 307—FACILITIES FOR INSPECTION

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

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 466–466k.

2. Section 307.2(m) is revised to read as follows:

§ 307.2 Other facilities and conditions to be provided by establishment.

* * * * *

(m) In addition to any facilities required to accomplish sanitary dressing procedures, the following inspection station facilities for cattle and swine slaughter lines described in § 310.1(b) of this subchapter are required:

(1) An inspection station consisting of 5 feet of unobstructed line space for each head or carcass inspector and, for viscera table kills, 8 feet for each viscera inspector on the inspector's side of the table.

(2) A minimum of 50 foot-candles of shadow-free lighting at the inspection surfaces of the head, viscera, and carcass.

(3) For each inspector, a handwash lavatory (other than one which is hand operated), furnished with soap, towels, and hot and cold water, and located adjacent to the inspector's work area. In addition, for each head and viscera inspector, a sterilizer located adjacent to the inspector's work area.

(4) For mechanized operations, a switch, located adjacent to each inspection station, which can stop the chain or conveyor.

(5) Facilities to position tally sheets or other recording devices, such as digital counters, and facilities to contain condemned brands.

(6) For swine slaughter lines requiring three or more inspectors and on which the swine heads are inspected while still attached to the carcass: at the carcass inspection stations, one glass, distortion-free mirror, at least 5 feet x 5 feet, mounted far enough away from the vertical axis of the moving line to allow the carcass to be turned, but not over 3 feet away and so mounted that any inspector standing at the carcass inspection station can readily view the back of the carcass.

PART 310—POST-MORTEM INSPECTION

1. The authority citation for Part 310 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 466–466k.

2. Section 310.1(b) is amended by adding a new subparagraph (3) to read as follows:

§ 310.1 Extent and time of post-mortem inspection; post-mortem inspection staffing standards.

* * * * *

(b) * * *

(3) *Swine Inspection.*[3] The following swine inspection staffing standards are applicable to those swine slaughter lines which require three or more inspectors and on which the swine heads are inspected while still attached to the carcass. These standards are predicated upon the use of a mirror, as described in § 307.2(m)(6), at the carcass inspection station to observe the back of the carcass and upon the observation, rather than palpation, at the viscera inspection station, of the spleen, liver, heart, lungs, and mediastinal lymph nodes.

[3] Pending the final decision in this rulemaking proceeding, all establishments described in this subparagraph have the option to meet the facility requirement in § 307.2(m)(6). The staffing standards, line speeds, and inspection procedures detailed herein will be applied to each establishment if and when it meets this facility requirement. In the interim, the present staffing standards, line speeds, and inspection procedures will be applied.

Butcher hogs				Sows and boars			
Head per hour line	Number of inspectors by stations			Head per hour line	Number of inspectors by stations		
	Head	Viscera	Carcass		Head	Viscera	Carcass
245–506	1	1	1	189–439	1	1	1
507–540	1	2	1	440–475	2	1	1
541–859	2	2	1	476–752	2	2	1
860–1022	2	3	1	753–895	3	2	1
1023–1106	3	3	1	896–964	3	3	1

Dr. Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that immediate implementation of this rule, on an interim basis, is necessary in order to meet existing budgetary constraints. The adjustments of procedures, staffing levels and related facility requirements will accommodate increased industry production, will reduce the Agency's projected labor costs, and will provide continued, high levels of public protection under the Federal Meat Inspection Act.

Therefore, pursuant to the authority in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this amendment at this time are impracticable and contrary to public interest, and good cause is found for making this amendment effective less than 30 days after publication in the **Federal Register.**

Done at Washington, DC, on August 18, 1981.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 81-25290 Filed 8-27-81; 8:45 am]

BILLING CODE 3410-DM-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 613 and 614

Eligibility and Scope of Financing Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, adopts and publishes a final new regulation concerning the extension of credit by Federal land banks and production credit associations to eligible borrowers specifically for basic processing and/or marketing for the borrowers' products, and amended regulations concerning the extension of credit by the production credit associations and repayable by eligible borrowers in not more than 10 years. These new and amended regulations implement two of the major authorities conferred on institutions of the Farm Credit System under the Farm Credit Act Amendments of 1980 (Pub. L. 96–592) to the Farm Credit Act of 1971 (12 U.S.C. 2001, *et seq.*)

EFFECTIVE DATE: August 26, 1981.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578, (202–755–2181).

SUPPLEMENTARY INFORMATION: On July 10, 1981, the Farm Credit Administration proposed for public comment a new regulation, 12 CFR 613.3045—Financing of basic processing and marketing activities, and amendments to 12 CFR 614.4110—Subpart C—Lending Authorities, Production credit associations, and 12 CFR 614.4200—Subpart E—Loan Terms and Conditions, Production credit associations (46 FR 35663 and 35664). The Federal Farm Credit Board considered each of the comments received and adopted final regulations in the course of its August 4, 1981 meeting.

As to 12 CFR 613.3045, a total of seven comments were received, four of which were editorial. Of the three substantive comments, two commentators suggested that the requisite percentage ownership of processing and/or marketing facilities by farmers, ranchers, or producers or harvesters of aquatic products be reduced to two-thirds or 90 percent, respectively. These suggestions were rejected in view of the legislative history of the 1980 amendments, which indicate the intention of Congress that ownership of separate processing and marketing facilities be vested entirely in the persons eligible to borrow from Federal land banks, Federal land bank associations, and production credit associations. The other commentator was concerned with the regulation's apparent exclusion of basic processing and marketing facilities where at least 50 percent of the throughput originates with eligible borrowers. This exclusion was intentional and the regulation has been revised to make clear that it is applicable only to situations where less than 50 percent of the throughput is produced by eligible borrowers. Where 50 percent or more of the throughput is produced by the applicant, the restrictions of the regulation do not apply.

No comments were received with respect to 12 CFR 614.4110. Two comments were received with respect to 12 CFR 614.4200, both of which were editorial in nature.

In adopting these final regulations, the Federal Farm Credit Board, acting under the provisions of 5 U.S.C. 553(d), specifically waived the requirement of the Administrative Procedure Act for publication of a substantive rule not less than 30 days before its effective date based on the Federal Farm Credit Board's findings that current and impending financial and economic conditions facing the agricultural sector of the Nation's economy require that Federal land banks, Federal land bank associations, Federal intermediate credit banks, and production credit associations have the increased flexibility to sever member/borrowers which the new regulations would provide. Consequently, these final regulations shall be effective August 28, 1981.

For the reasons set out in the preamble, Parts 613 and 614 of Chapter IV, Title 12, of the *Code of Federal Regulations* is amended as shown.

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

Subpart B—Eligibility To Borrow from Federal Land Banks and Production Credit Associations

1. Section 613.3045 is added to read as follows:

§ 613.3045 Financing of basic processing and marketing activities.

(a) Federal land banks and production credit associations may provide financing for processing (including storage) and marketing activities related to the production by farmers, ranchers, and producers or harvesters of aquatic products. Where 50 percent or more of the "throughput" (based on the annual usage) used in the basic processing and/or marketing operation is produced by the applicant, this regulation shall not apply. It is intended that benefits from the processing and marketing authority accrue to persons eligible to borrow from Federal land banks or production credit associations (as defined in § 613.3010 and § 613.3020). Such financing may be furnished provided that:

(1) The basic processing and/or marketing activities constitute a logical and actual extension of a farmer's, rancher's, or aquatic producer's or harvester's operation. (It is intended that

credit be made available for financing forward integration from the production stage through the basic processing and/or marketing stage.)

(2) The applicant, or as provided for in paragraph 3, the owners of the applicant processing or marketing unit, produces on a sustained basis a minimum of 20 percent of the "throughput" (based on annual usage) of the basic processing and/or marketing operation or such higher percentage established by the bank board. Essentially all of the additional "throughput" utilized in the processing and/or marketing stage shall be purchased from or handled for persons eligible to borrow from Federal land banks or production credit associations (as defined in § 613.3010 and § 613.3020).

(3) Where the ownership of the processing and/or marketing activities differs from that of the basic production unit, all of the ownership of the processing and/or marketing operation shall be vested in persons eligible to borrow from Federal land banks or production credit associations (as defined in § 613.3010 and § 613.3020).

(b) All district board policies in connection with the financing of processing and/or marketing activities shall be submitted to FCA prior to implementation of such authorities. Such policies may be amended subject to FCA prior approval.

(c) The coordinated district board policies shall provide the basic framework for more detailed procedures to be developed by the banks. All policies shall embody at least the following:

(1) The minimum "throughput" requirement or variations of this requirement.

(2) The method for defining basic processing and/or marketing activities by commodity or groups of commodities.

(3) Provisions for limiting financing extended under the processing and marketing authority to those needs directly associated with the processing and/or marketing operation.

(4) Provisions for identifying processing and/or marketing loans where less than 50 percent of the throughput is produced by the borrower or owners of the processing and/or marketing activity.

(5) Provisions for requiring an analysis and documentation in loan files of the ownership and operational features of the borrower sufficient to establish loan eligibility under § 613.3045(a) and continuing eligibility at each new loan or loan renegotiation.

(6) Authorities and limitations applicable to Federal land banks and production credit associations regarding loan purposes and such other guidelines deemed necessary.

PART 614—LOAN POLICIES AND OPERATIONS

Subpart C—Lending Authorities

2. Section 614.4110 is revised as follows:

§ 614.4110 Production credit associations.

Each production credit association, under policies established by the bank board and procedures prescribed by the bank, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to eligible borrowers. Short- and intermediate-term loans may be made for a term not exceeding 7 years, or such longer periods, not to exceed 10 years as provided in § 614.4200. Loans to eligible producers or harvesters of aquatic products for the purposes enumerated in § 614.4200(d) may be for a term not exceeding 15 years.

Subpart F—Loan Terms and Conditions

3. Section 614.4200 is amended by revising paragraphs (c) and (d) and removing (e).

§ 614.4200 Production credit associations.

* * * * *

(c) Longer intermediate-term loans may be made with maximum maturity not to exceed 10 years from date of initial disbursement. Adoption of this longer intermediate-term loan program is optional with each district Farm Credit board.

(1) Loans made or extended under this 10-year program shall meet the following criteria:

(i) Specific major capital items can be financed, such as new equipment, new or remodeled buildings, or facilities with a useful life and value, after normal depreciation, which exceeds the term of the loan at all times. The loan will be amortized and the purpose of the loan specifically identified.

(ii) The borrower's earnings, history, repayment record, and net earnings projections must satisfactorily support the loan and provide assurance for repayment within 10 years.

(iii) Long-term real estate mortgage credit must not be practical for the applicant to obtain if the loan is being made to finance or refinance the purchase of real estate.

(2) District boards shall adopt policies relating to:

(i) Cooperation between production credit associations and Federal land bank associations in the consideration of any loans bordering on the longer term real estate mortgage category.

(ii) Conditions under which this authority can be delegated and withdrawn from a production credit association.

(iii) Methods to be followed in credit reviews whereby loans of this type, made during the period covered by the review, will be reviewed and commented upon as to compliance with policy and procedures.

(iv) Provisions for easy identification and adequate reporting on loans of this type to enable timely supervision by the bank.

(3) The policies are subject to Farm Credit Administration approval.

(d) Longer term loans may be made with maturities not to exceed 15 years to producers or harvesters of aquatic products for major capital expenditures including but not limited to purchase of vessels, construction or purchase of shore facilities, and similar purposes directly related to the producing or harvesting operation.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243, 2246, and 2252)

Donald E. Wilkinson,

Governor.

[FR Doc. 81-25109 Filed 8-27-81; 8:45 am]

BILLING CODE 6705-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 211

[Release Nos. 33-6342; 34-18045; 35-22168; IC-11913; AS-297]

Rescission of Certain Accounting Series Releases and Adoption of Amendments to Certain Rules of Regulation S-X Relating to Disclosure of Maturities of Long-Term Obligations

AGENCY: Securities and Exchange Commission.

ACTION: Rescission of certain accounting series releases and adoption of amendments to certain rules of Regulation S-X.

SUMMARY: The Commission announces the rescission of 13 accounting series releases on the basis of a review and determination that the policies stated therein no longer have current application or have been superseded by other pronouncements. The Commission also announces the amendment of certain rules in Regulation S-X, relating to disclosure of maturities of long-term obligations, because the information called for by those rules is now required

by generally accepted accounting principles.

EFFECTIVE DATE: August 28, 1981, for the rescission of accounting series releases and for years ending after June 15, 1981 for Regulation S–X amendments.

FOR FURTHER INFORMATION CONTACT: David F. Martin or LeGrand C. Kirby, III, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2130).

SUPPLEMENTARY INFORMATION:

Rescission of Certain Accounting Series Releases

Periodically, the Commission reviews its existing releases with the objective of determining what material is no longer necessary. Today's action is the result of such a review. These releases are being rescinded because (1) accounting standards or auditing standards promulgated subsequent to the issuance of a release provide adequate guidance on the particular topic, (2) subsequent Commission action effectively supersedes the release, or (3) other changed circumstances make the release unnecessary.

The following releases have been rescinded for the above reasons:

ASR No. 2 (May 6, 1937) (11 FR 10913), "Independence of Accounts—Relationship to Registrant."

ASR No. 3 (September 13, 1937) (11 FR 10913), "Treatment of Investments in Subsidiaries in Consolidated Statements."

ASR No. 5 (May 10, 1938) (11 FR 10913), "Treatment of Dividends on Corporation's Own Capital Stock Held in Sinking Fund."

ASR No. 41 (December 22, 1942) (11 FR 10928), "Conditions Under Which Companies Reporting on Forms 10–K and N–30A–1 May File Copies of Their Regular Annual Reports to Stockholders in Place of Certain of the Financial Statements Required to be Filed by Such Forms."

ASR No. 56 (November 27, 1946) (11 FR 13958), "Procedures Which Management Investment Companies May Follow in Allocating Past Dividends so as to Arrive at (1) the Balance of Undistributed Net Income; and (2) Accumulated Net Realized Gain or Loss on Investments."

ASR No. 62 (June 27, 1947) (15 FR 9104), "Circumstances Under Which Independent Public Accountants May Properly Express an Opinion, and the Form of Such Opinion with Respect to Summary Earnings Tables To Be Included in Registration Statements Filed Under the Securities Act of 1933."

ASR No. 95 (December 28, 1962) (28 FR 276), "Accounting for Real Estate Transactions Where Circumstances Indicate that Profits Were Not Earned at the Time Transactions Were Recorded." In 1973, the American Institute of Certified Public Accountants ("AICPA") issued an Industry Accounting Guide, "Accounting for Profit Recognition on Sales of Real Estate" (the "Guide"). The Guide addresses the concerns described in ASR No. 95 in a comprehensive manner and provides guidance regarding the timing of profit recognition in other complex real estate transactions. The Guide has generally been followed in practice and the Commission's staff has relied on the principles stated therein. The general acceptance in practice of the principles articulated in the private-sector Guide renders the guidance in ASR No. 95 no longer necessary.

ASR 102 (December 7, 1965) (30 FR 15420), "Balance Sheet Classification of Deferred Income Taxes Arising from Installment Sales."

ASR No. 151 (January 3, 1974) (39 FR 2085), "Disclosure of Inventory Profits Reflected in Income in Periods of Rising Prices."

ASR No. 166 (December 23, 1974) (40 FR 2678), "Disclosure of Unusual Risks and Uncertainties in Financial Reporting."

ASR No. 169 (January 23, 1975) (40 FR 6483), "Financial Disclosure Problems Relating to the Adoption of the LIFO Inventory Method."

ASR No. 188 (January 7, 1976) (41 FR 4817), "Interpretive Statement by the Commission on Disclosure by Registrants of Holdings of Securities of New York City and Accounting for Securities Subject to Exchange Offer and Moratorium."

ASR No. 264 (June 14, 1979) (44 FR 36156), "Scope of Services by Independent Accountants." A discussion of the factors involved in rescinding this release is included in a separate release [ASR No. 296 (August 20, 1981)], issued concurrently with this release.

The Commission is also making technical amendments to the Code of Federal Regulations by rescinding certain ASR's which are listed in Part 211 but which have already been superseded by other Commission actions.

Amendment of Certain Rules in Regulation S–X

The Commission is also amending certain rules in Regulation S–X (§§ 210.5–02.22(a)(6), 6–03.16(c), 6–22.21) by deleting certain sections which require disclosure of the aggregate amount of maturities and sinking fund requirements of long-term debt for each of the five years following the latest balance sheet date. These rules are being amended as a result of the March 1981 issuance of FASB Statement No. 47, "Disclosure of Long-Term Obligations," which imposes an identical requirement. Statement No. 47 is effective for fiscal years ending after June 15, 1981; therefore, the amendments to Regulation S–X are effective for fiscal years ended after June 15, 1981.

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Commission Action: The Commission hereby rescinds and removes the following releases in the accounting series, Part 211 of Title 17, Chapter II, of the Code of Federal Regulations. Accounting Series Release Nos. 2, 3, 5, 12, 37, 41, 54, 56, 62, 95, 102, 138, 151, 159, 166, 169, 172, 188, 211, 225, 235, 264.

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

Text of Amended Rules

Part 210 of Title 17 CFR Chapter II is amended as follows:

1. By revising paragraph 22(a) of § 210.5–02 to read as follows:

§ 210.5–02 Balance sheets.

* * * * *

22. *Bonds, mortgages and other long-term debt, including capitalized leases.* (a) State separately, in the balance sheet or in a note thereto, each issue or type of obligation and such information as will indicate (see § 210.4–06):

(1) The general character of each type of debt including the rate of interest; (2) the date of maturity, or, if maturing serially, a brief indication of the serial maturities, such as "maturing serially from 1980 to 1990"; (3) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (4) a brief indication of priority; and (5) if convertible, the basis. For amounts owed to related parties, see § 210.4–08(k).

* * * * *

2. By revising paragraph 16(c) of § 210.6–03 to read as follows:

§ 210.6–03 Balance sheets; statements of assets and liabilities.

* * * * *

16. *Long-term debt.* * * *

(c) *Other long-term debt.* Indicate whether secured. State separately (1) total of amounts due directors and officers; and (2) other long-term debt, specifying any significant item.

* * * * *

3. By revising paragraph 21 of § 210.6–22 to read as follows:

§ 210.6–22 Balance sheets.

* * * * *

21. *Other long-term debt.* Indicate whether secured. State separately (a) total of amounts due directors and officers; and (b) other long-term debt, specifying any material item. The amount and terms (including commitment fees and the conditions under which

commitments may be withdrawn] of significant unused commitments for long-term debt that would be disclosed under this rule if used shall be disclosed in the notes to the financial statements.

* * * * *

These amendments are adopted pursuant to authority in Sections 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s(a)] of the Securities Act of 1933 and Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78o(d), 78w(a)] of the Securities Exchange Act of 1934.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 20, 1981.

[FR Doc. 81-25141 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 136 and 137

[Docket No. 79N-0327]

Iron Fortification of Flour and Breads; Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the standards of identity for enriched flour and enriched bread by changing the requirements for enrichment with iron from the present minimum and maximum requirements to single-level requirements. FDA is also providing for reasonable overages within the limits of good manufacturing practices. The single-level requirements will promote greater uniformity and will allow enriched bread to be made from enriched flour without further adjustment.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Voluntary compliance: October 27, 1981. Objections by September 28, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A proposal to amend the standards of identity for enriched bread, rolls, and buns (21 CFR 136.115), enriched flour (21 CFR 137.165), and enriched self-rising flour (21 CFR 137.185) by deleting minimum and maximum requirements for iron enrichment and establishing single-level requirements for each food was published in the **Federal Register** of October 19, 1979 (44 FR 60313). The proposed amendments also provided for reasonable overages within the limits of good manufacturing practices. The proposed single levels for iron enrichment were 12.5 milligrams per pound for enriched bread, rolls, and buns; and 20 milligrams per pound for enriched flour and enriched self-rising flour. These proposed levels would allow enriched bread to be made from enriched flour without further adjustment.

Four letters, each containing one or more comments, were received in response to the proposal. The comments and FDA's responses are as follows:

1. One comment suggested a lower single level of 13 milligrams of iron per pound of flour and 8 milligrams of iron per pound of bread provided that the replacement iron is bioequivalent to the "wheat iron" lost. The comment contended that choosing the previously permitted upper level of the range for enriched bread as the single level would increase the level of iron above the present amount found in the food supply.

FDA believes that it would not be prudent to lower the level of iron in these products because there is an urgent need for iron in the diets of young children and women of childbearing age. In addition, the manufacturers of enriched flour and enriched bread are currently using the upper limits of the range for the addition of iron. Consequently, the addition of 12.5 milligrams of iron per pound of enriched bread and 20 milligrams of iron per pound of enriched flour would not be a significant increase in the amount of iron added to the food supply.

FDA advises that the issue of iron bioavailability is not within the scope of this final regulation. FDA stated in the final rule concerning iron fortification for flour and bread published in the **Federal Register** of August 29, 1978 (43 FR 38575), that a separate proposal on the bioavailability of iron would be published at a future date, and any discussion of this issue will be addressed at that time.

2. One comment requested a 2-year lead time after publication of the final rule in which to have all labels in compliance.

FDA considers that the July 1, 1983, effective date for mandatory labeling changes will provide sufficient time to have all labels in compliance.

3. One comment expressed the concern that enriched bread prepared in compliance with the published proposal may contain iron slightly in excess of the proposed single level because of variations consistent with good manufacturing practices and that State officials have in the past indicated a belief that such a product would violate State rules adopting the current FDA standard. The comment asked that compliance with the proposed regulation be permitted, at the option of the baker, upon publication of this final order, to provide orderly transition to the new standard and to avoid inconsistent State regulations. The comment argued that there will be no harm to the public in permitting immediate compliance.

Section 701(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(1)) states that an order may not become effective before the day following the last day on which objections may be filed, while section 701(e)(2) of the act provides 30 days for adversely affected persons to file objections. Therefore, FDA concludes that a reasonable date for voluntary compliance with this final regulation is October 27, 1981.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 136—BAKERY PRODUCTS

1. In Part 136 by revising § 136.115(a)(1), to read as follows:

§ 136.115 Enriched bread, rolls, and buns.

(a) * * *

(1) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and 12.5 milligrams of iron.

* * * * *

PART 137—CEREAL FLOWERS AND RELATED PRODUCTS

2. In Part 137:

a. By revising § 137.165(a), to read as follows:

§ 137.165 Enriched flour.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 20 milligrams of iron.

* * * * *

b. By revising § 137.185(a), to read as follows:

§ 137.185 Enriched self-rising flour.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 20 milligrams of iron.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin October 27, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983 shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register**.

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: August 14, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-25157 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 176

Diallyldiethylammonium Chloride Polymer

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 170 to 199, revised as of April 1, 1981, in § 176.170(a)(5), on page 155, the first three entries regarding "Diallyldiethylammonium Chloride Polymer" were originally corrected at 46 FR 38503, July 28, 1981. The three entries are reprinted to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Diallyldiethylammonium chloride polymer with acrylamide, and diallyldimethylammonium chloride, produced by copolymerizing acrylamide, diallyldiethylammonium chloride, and diallyldimethylammonium chloride respectively, in the following weight ratios and having viscosities determined at 22° C. by LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method) as follows:	
1. Weight ratio: 50–2.5–47.5. The finished resin in a 1 percent by weight aqueous solution has a minimum viscosity of 22 centipoises.	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.
2. Weight ratio: 25–2.5–72.5. The finished resin in a 0.20 percent by weight aqueous solution has a minimum viscosity of 20 centipoises.	For use only as a drainage and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.075 percent by weight of the finished paper and paperboard.
3. Weight ratio: 80–2.5–17.5. The finished resin in a 0.30 percent by weight aqueous solution has a minimum viscosity of 50 centipoises.	For use only as a drainage and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.075 percent by weight of the finished paper and paperboard.
Diallyldiethylammonium chloride polymer with acrylamide, potassium acrylate, and diallyldimethylammonium chloride. The polymer is produced by copolymerizing either: (1) acrylamide, diallyldiethylammonium chloride, and diallyldimethylammonium chloride in a weight ratio of 50–2.5–47.5, respectively, with 4.4 percent of the acrylamide subsequently hydrolyzed to potassium acrylate, or (2) acrylamide, potassium acrylate (as acrylic acid), diallyldiethylammonium chloride, and diallyldimethylammonium chloride in a weight ratio of 47.8–2.2–2.5–47.5, so that the finished resin in a 1 percent by weight aqueous solution has a minimum viscosity of 22 centipoises at 22° C, as determined by LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.
Diallyldimethylammonium chloride polymer with acrylamide, reaction product with glyoxal, produced by copolymerizing not less than 90 weight percent of acrylamide and not more than 10 weight percent of diallyldimethylammonium chloride, which is then cross-linked with not more than 30 weight percent of glyoxal, such that a 10 percent aqueous solution has a minimum viscosity of 25 centipoises at 25° C as determined by Brookfield viscometer Model RVF, using a No. 1 spindle at 100 r.p.m.	For use only as a dry and wet strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such an amount that the finished paper and paperboard will contain the additive at a level not in excess of 2 percent by weight of the dry fibers in the finished paper and paperboard.
* * * * *	

BILLING CODE 4110-03-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Procaine Penicillin G in Oil

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Masti-Kure Products Co., Inc., providing for safe and effective intramammary use of procaine penicillin G in oil for treating mastitis in dry cows.

EFFECTIVE DATE: August 28, 1981.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: Masti-Kure Products Co., Inc., 166 Yantic St., Norwich, CT 06360, filed a supplemental NADA (65-383) providing for intramammary use of single-dose, 10-milliliter (mL) and four-dose, 40-mL disposable syringes containing 100,000 units of procaine penicillin G in peanut oil per 10 mL. The products are used for treating mastitis caused by *Streptococcus agalactiae* in dry cows.

On September 10, 1975, FDA granted Masti-Kure approval for use of the drug for treating bovine mastitis caused by *Streptococcus agalactiae, S. dysgalactiae,* and *S. uberus* in lactating cows. The approval was based on Masti-Kure's demonstration of bioequivalency between its drug and G. C. Hanford's drug which has been National Academy of Sciences/National Research Council (NAS/NRC) reviewed and approved for the aforementioned claim.

The agency has since upgraded to effective status the NAS/NRC classification of Hanford's drug for dry cow mastitis treatment. Provisions for use of procaine penicillin G in oil, mastitis products are codified in 21 CFR 540.874a. The section also specifies those conditions of use for which applications for approval of products which are identical or similar to Hanford's product may require bioequivalency and safety information in lieu of effectiveness data specified by 21 CFR 514.111. In accordance with the foregoing and through a milk residue analysis study and urine depletion analysis study, Masti-Kure has again demonstrated bioequivalency between its drug (peanut oil vehicle) and Hanford's (sesame oil vehicle) when used for treating bovine mastitis caused by *S. agalactiae* in dry cows. Accordingly, Masti-Kure's supplement is approved based on generic equivalence to Hanford's NAS/NRC reviewed drug and the regulations are amended to reflect the approval.

Approval of this supplemental application poses no increased human risk from exposure to residues of procaine penicillin G because the number of food-producing animals receiving medication will not increase; the drug is already regulated for the requested use. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by Section 1(a)(1) of the Order.

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly § 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 540.874a is amended by revising paragraph (c)(4)(i), redesignating paragraphs (c)(4)(iii) (A) and (B) as (c)(4)(iii) (*a*) and (*b*), and revising redesignated (c)(4)(iii)(*a*) to read as follows:

§ 540.874a Procaine penicillin G in oil.

* * * * *

(c) * * *

(4) (i) *Sponsor.* See No. 010515 (sesame oil vehicle) and No. 011714 (peanut oil vehicle) in § 510.600(c) of this chapter.

* * * * *

(iii) * * *

(*a*) *Single dose regimen.* Infuse each infected quarter at time of drying-off with one 10-milliliter dose (sesame oil or peanut oil vehicle).

(*b*) *Limitations.* * * *

* * * * *

Effective date: August 28, 1981.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))

Dated: August 19, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81-24833 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 573

[Docket No. 76G-0367]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of selenium in the feed of laying hens. This action results from a petition by the American Feed Manufacturers Association.

DATES: Effective on August 28, 1981; objections by September 28, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lonnie Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: FDA issued a notice in the Federal Register of November 6, 1979 (44 FR 64117) announcing that the American Feed Manufacturers Association (AFMA), 1701 N. Fort Meyer Dr., Arlington, VA 22209, had filed a petition (GRASP MF 3433), seeking the affirmation of selenium as generally recognized as safe (GRAS). It was published under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786 as amended (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status (21 CFR 570.35). The petition proposed that sodium selenite or sodium selenate be affirmed as GRAS when used in accordance with good manufacturing and feeding practices so as to provide not more than 0.1 part per million (ppm) of supplemental selenium in the diet of chickens producing eggs for human consumption. The notice requested comments by January 7, 1980.

The agency received 33 comments in response to the notice, all of which agreed that there was a need for selenium in the feed of laying hens. Two of the comments were, however, opposed to the affirmation of selenium as GRAS. One said that although selenium is a necessary trace element in the diet, it is also exceedingly toxic in very small amounts; that its administration must be controlled within narrow bounds or chickens will

sicken and die—by either an overdose or underdose; and that, therefore, it should not be affirmed as GRAS. The other endorsed selenium supplementation of laying hen feeds but only when such supplementation is permitted through analyzed premixes as specified in the selenium feed additive regulation (i.e., 21 CFR 573.920). Eight respondents submitted literature reprints and other information supporting the safe and effective use of selenium in feed for laying hens; however, none of the data addressed human safety, although one reprint did discuss the role of selenium in preventing myocardiac infarcts.

Based on review of the GRAS petition and all the available information, including the comments, FDA concludes that selenium for use in the feed of laying hens is not GRAS but is a food additive and subject to section 409 of the act (21 U.S.C. 348). FDA bases this conclusion on a finding that dietary levels of selenium in excess of 2 ppm in experimental animals have been shown to be hepatotoxic, and therefore selenium is not GRAS under the conditions of its intended use and is therefore a food additive (see section 201(s) of the act (21 U.S.C. 321(s))). In circumstances like this, however, the agency has the authority to treat a petition for GRAS status as a food additive petition and approve the petition if the facts so warrant. The agency chose to follow this course of action and has, before publishing this notice, notified the petitioner its decision to review selenium as a food additive for use in layer chickens. Accordingly, as provided by § 570.38 (a) and (c)(1) (21 CFR 570.38 (a) and (c)(1)), FDA is promulgating a food additive regulation governing the use of selenium.

The safety of selenium in layer feeds is supported by extensive documentation in scientific literature. Selenium is currently approved as a food additive for use in the feed of growing chickens, turkeys, swine, sheep, and cattle in § 573.920 *Selenium*. The agency concludes that available data show that the proposed use of 0.1 ppm of selenium in laying chicken feeds is safe. The agency is hereby amending § 573.920 to permit the additional safe use of selenium as a food additive in the feed of layers. Additionally, FDA is deleting the age restriction, "up to 16 weeks of age," in § 573.920. This restriction had been required because of the lack of available egg residue data. The agency has carefully reviewed the data in the petition regarding the residue levels in eggs and edible tissues from chickens fed selenium as a supplement at 0.1 ppm for a period of up to 76 weeks. The agency concludes from this study that supplementation in the feed of laying chickens and of chickens beyond 16 weeks of age is safe.

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 therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch, Food and Drug Administration (address above), between 9 a.m. and 4 p.m., Monday through Friday.

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 573 is amended in § 573.920 by revising paragraphs (b)(1) and (c)(1) and by removing paragraph (f), as follows:

§ 573.920 Selenium.

* * * * *

(b) * * *

(1) Chickens: In complete feed at a level not to exceed 0.1 part per million.

* * * * *

(c) * * *

(1) It is to be incorporated into each ton of the complete feed of chickens, swine, sheep, beef cattle, and dairy cattle by a premix containing no more than 90.8 milligrams of added selenium and weighing not less than 1 pound.

* * * * *

(f) [Removed]

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1981, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 28, 1981.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 21, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-25034 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004E]

Occupational Exposure to Lead; Supplemental Statement of Reasons and Amendment of Standard; Notice of Deferral of Effective Date

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of further deferral of effective date of final rule.

SUMMARY: This notice defers the effective date of the Supplemental Statement of Reasons and Amendment of the Lead Standard until October 11, 1981. The action is necessary to allow additional time to consider the appropriateness of the lengthy and complex document in light of the numerous petitions for administrative review which have been received, and is consistent with the order of the U.S. Court of Appeals for the D.C. Circuit.

DATE: The effective date is deferred until October 11, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Beliles, Occupational Safety and Health Administration, Room

N3617, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-7081.

SUPPLEMENTARY INFORMATION: On January 21, 1981, OSHA published in the **Federal Register** (46 FR 6134) a supplemental statement of reasons assessing the technological and economic feasibility of meeting the permissible exposure level for lead contained in the lead standard (29 CFR 1910.1025), in 46 industries. The document was prepared in response to a remand order from the U.S. Court of Appeals for the D.C. Circuit, in the "United Steelworkers of America v. Marshall," 647 F.2d 1189 (D.C. Cir. 1980). The Supplemental Statement of Reasons covered nearly 100 pages in the **Federal Register**, and was originally scheduled to be effective on February 20, 1981. On February 3, 1981, the agency joined industry petitioners in a motion to the circuit court to defer action on the Supplemental Statement of Reasons until the OSHA has had an opportunity to review petitions for administrative reconsideration. On February 6, 1981, the effective date of the Supplemental Statement of Reasons was deferred until March 30, 1981 pursuant to a Presidential Memorandum to the Secretary of Labor and other cabinet officials (46 FR 11253). On March 27, 1981, OSHA further deferred the effective date, for a period of 30 days, so that it might have additional time to consider the numerous petitions for administrative review of the Supplemental Statement of Reasons—a very lengthy and complex document.

On April 28, 1981 (46 FR 23742) and on June 29, 1981 (46 FR 33244) the effective date was again deferred in succession until August 31, 1981.

On July 17, 1981, the D.C. Circuit granted the joint motion to defer action on the Supplemental Statement until October 11, 1981, pending OSHA's review of the petitions for administrative reconsideration. "United Steelworkers v. Marshall," No. 79-1048.

Accordingly, the effective date of the Supplemental Statement is hereby deferred until October 11, 1981. Due to the short deferral period, notice and opportunity for public comment on the deferral is impractical and unnecessary under 5 U.S.C. 553 and 29 U.S.C. 655(b).

Signed at Washington, D.C., this 25th day of August, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-25307 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL 1917-1]

State and Local Assistance; Grants for Construction of Wastewater Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

SUMMARY: Under the authority of 40 CFR 30.1000, the Environmental Protection Agency (EPA) has issued a class deviation from three provisions of EPA's construction grant regulations. Those provisions govern the preparation, submittal and use of State project priority lists (PPL). Wastewater treatment construction grant projects must be included on a State project priority list to be eligible for EPA grant assistance (CFDA Number 66.418).

The President has proposed several changes to the Clean Water Act. If those changes are not enacted, he has indicated he will not request a construction grant appropriation for FY 1982. Because of the potential changes in the Act and the uncertainty of funding it is unreasonable for EPA to require States to develop FY 1982 project priority lists at this time. The June 19, 1981, rescission of construction grant funds further affects States' PPL management. 40 CFR 35.915(f)(1) establishes a project bypass procedure that States may use when "fundable projects" (projects they expect to fund during the fiscal year) are delayed. The rescission reduced each State's allotment, so many previously fundable projects are below the funding line. Following the bypass procedure for those previously fundable projects would be unnecessarily burdensome.

The class deviation published as part of this notice permits States to continue to use their FY 1981 project priority lists until EPA issues additional guidance and, thus, provides States the flexibility to obligate their remaining funds.

DATES: This deviation is effective August 17, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Pippen, Jr., Director, Grants Administration Division (PM-216), 401 M Street SW., Washington, DC 20460, (202) 755-0650.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, EPA is required to judge whether a regulation is major and therefore subject to the regulatory impact analysis requirements of the Order or whether it may follow other development procedures. This deviation will not have a substantial impact on the economy. Therefore, we have determined it is not a major regulation and, thus, it is not subject to the impact analysis requirements of Executive Order 12291.

Dated: August 17, 1981.

John L. Horton,

Assistant Administrator for Administration (PM-208).

Dated: August 14, 1981.

James N. Smith,

Acting Assistant Administrator for Water (WH-556).

Class Deviation from 40 CFR 35.1533-4(b)(4) 40 CFR 35.915(e) and 40 CFR 35.915(f)(1) of EPA's Construction Grant Regulations

From: Belle N. Davis, Acting Director, Grants Administration Division (PM-216)

To: Regional Administrators

Dated: August 17, 1981.

The President has proposed numerous changes to the Clean Water Act (CWA). If these changes are not enacted he has indicated he will not request construction grant funding for FY 1982. Because of those potential changes in the CWA and the uncertainty of funding, it is unreasonable for EPA to issue guidance for preparing State FY 1982 project priority lists (PPL) at this time. However, 40 CFR 35.1533-4(b)(4) requires States to submit to EPA each year's final PPL by July 15, and 40 CFR 35.915(e) requires the Regional Administrator to review and accept each year's PPL before EPA will fund projects from the list during the next fiscal year. Also, the President signed a construction grant rescission (Pub. L. 97-12) on June 19, 1981, which further affects States' PPL management. 40 CFR 35.915(f)(1) establishes a project bypass procedure that States may use when "fundable projects" (projects they expect to fund during the fiscal year) are delayed. The rescission reduced each State's allotment, so many previously fundable projects are below the funding line. Following the bypass procedure for those previously fundable projects would be unnecessarily burdensome.

To eliminate these problems, I am approving a deviation from all three provisions to permit States to use their FY 1981 PPLs until EPA issues additional PPL guidance. This deviation will provide States the flexibility to obligate their remaining funds.

1. *40 CFR 1533-4(b)(4).* I am approving a deviation from the submission dates of 40 CFR 35.1533-4(b)(4) for FY 1982 PPL's. If Congress appropriates funds for FY 1982, EPA will issue PPL guidance based on the statutory changes and will establish new submission dates.

2. *40 CFR 35.915(e).* I am approving a deviation from 40 CFR 35.915(e) to permit States to continue to use their FY 1981 PPL's in FY 1982, if they wish to do so.

3. *40 CFR 35.915(f)(1).* I am approving a deviation to permit States to fund any project on the fundable portion of their FY 1981 PPL's

based on the States' allotments before the rescission, providing funds are available and they wish to do so. However, States shall follow the bypass procedures of § 35.915(f)(1) to fund projects below the original FY 1981 funding line.

Dated: August 17, 1981.

Concur:

John L. Horton,

Assistant Administrator for Administration (PM-208).

Dated: August 14, 1981.

Concur:

James N. Smith,

Acting Assistant Administrator for Water (WH-556).

[FR Doc. 81-25238 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-29-M

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40 CFR Part 52

[A-1-FRL 1920-7]

Approval and Promulgation of Implementation Plans; Connecticut Revision; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of correction to final rule.

SUMMARY: This document corrects an omission in the regulatory portion of a final rulemaking for the Connecticut State Implementation Plan under the Clean Air Act published on December 23, 1980 (45 FR 84769). The change being made corrects an error in regulatory language and does not represent any new information submitted by the state of Connecticut.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: This notice corrects an omission in the regulatory portion of a final rulemaking published on December 23, 1980 (45 FR 84769). On page 84785, columns 2 and 3 of the preamble to that rulemaking, EPA discussed revisions to Connecticut regulations 19-508-4 (source monitoring requirements) and 19-508-5 (stack emissions testing) and addressed all comments submitted during the 30-day public comment period which followed EPA's proposed approval of these revisions (45 FR 45094 July 2, 1980). EPA also stated its decision to approve these revisions. However, EPA inadvertently failed to include regulations 19-508-4 and 19-508-5 in the list of regulations submitted by the state as part of its SIP. Today's correction adds these regulations to the list.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations, 52.370, paragraph (c) is amended by adding subparagraph (16) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(16) Revisions to regulation 19-508-4 (source monitoring requirements) and regulation 19-508-5 (stack emissions testing) submitted on November 7, 1977 by the Commissioner of the Connecticut Department of Environmental Protection.

Dated: August 17, 1981.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 81-25068 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL 1896-8]

Approval and Promulgation of Implementation Plans: Connecticut; Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving two narrative revisions to the Connecticut State Implementation Plan (SIP) submitted by the Commissioner of the Connecticut Department of Environmental Protection (DEP) on December 19, 1980 (received on December 22, 1980) and amended on March 11, 1981 and July 15, 1981. One of the revisions to the SIP is a modeling guideline developed for use by the DEP to determine whether the impacts of its actions relative to point sources of pollution will be in compliance with ambient air quality standards. The other is a new program, the "Air Pollution Control/Energy Trade Option" (Energy Trade Program), which allows the DEP to consider improved energy efficiency in determining an alternative sulfur control strategy under the existing sulfur regulation, 19-508-19. Based on the DEP's energy-use calculation and an ambient impact review, certain individual premises may be allowed to purchase and burn fuel oil containing up to 2.2% sulfur by weight. These two SIP revisions were proposed for approval on May 1, 1981 (46 FR 24597), and three comment letters were received during the comment period which ended on June 9, 1981.

The May 1 Notice of Proposed Rulemaking (NPR) also proposed new sulfur limitations for individual sources smaller than 250 million Btu/hour which would subsequently be approved under the Energy Trade Program. No action is being taken at this time on these individual revisions. Final federal review and rulemaking will be conducted after individual state approvals are granted.

EFFECTIVE DATE: August 28, 1981.

ADDRESSES: Copies of the Connecticut submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460; the Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: The Connecticut DEP has developed two amendments which it has submitted to EPA for inclusion in the federal SIP. One, the Energy Trade Program, is a new sulfur control strategy based on the existing sulfur control regulation, 19-508-19. This program will allow the use of higher sulfur content fuel where energy use has been reduced if it can be shown that the impacts of such an approval are in compliance with ambient air quality standards. Each approval will be in the form of an order issued by the Commissioner of the DEP which establishes a sulfur control strategy for each specific facility. As discussed in the May 1 NPR, the limits established for each facility will be enforceable under state and federal law.

The other amendment is Connecticut's *New Source Ambient Impact Analysis Guideline* (the Connecticut Modeling Guideline) which outlines an impact analysis procedure on the level of EPA's screening model procedure but which includes (1) a model the state has developed (based on EPA's PTMTP model), (2) a modeled background component consisting of nearby sources which emit 15 tons or more of pollution in a year, and (3) a background component based on the state's monitoring system data.

As described and proposed in the NPR, EPA plans to use a new federal SIP revision procedure for approving revised sulfur-in-fuel limitations for those Connecticut sources under 250 mBtu/hour which will be approved by the Commissioner of the DEP under the Energy Trade Program. Under this new procedure, EPA has already proposed approval for these small sources. The DEP will review each small source application using the procedures approved today and will give notice and receive comments on each such approval. The EPA public comment period will run concurrently with the state public comment period, and EPA will not issue a separate notice of proposed rulemaking for each small source approval. Each small source approval by the DEP will be submitted to EPA as a SIP revision. EPA will review the state's submittal for these sources, including any public comments received, prior to taking final rulemaking action. Sources 250 mBtu/hour or larger will not be covered by this new procedure. Approvals of these larger sources will require separate proposed and final federal rulemaking as individual SIP revisions.

Three comment letters were received during the comment period addressing the energy trade program and EPA's proposed new SIP revision procedure. Two of these also addressed the approval of Connecticut's modeling procedures.

1. The Adequacy of the CT Modeling Guideline

One commenter supported the approval of the Connecticut Modeling Guideline. Several issues were raised regarding the Connecticut Modeling Guideline by another commenter who argued that the guideline should not be approved.

It was suggested that DEP's technique for handling complex terrain be carefully scrutinized. EPA has compared the terrain handling techniques of Connecticut's model to those described in EPA's models, and it has been determined that under very limited terrain and atmospheric conditions, the DEP's terrain handling technique would not be consistent with the benchmark EPA method contained in the CRSTER model. In response, the DEP has agreed to change the Connecticut Modeling Guideline to address this inconsistency, as set forth in the July 15, 1981 submittal from the state.

The commenter suggested that EPA require Connecticut to "employ one of EPA's proposed models for handling complex terrain, i.e. COMPLEX I or COMPLEX II". The COMPLEX I and II models have not yet been proposed by EPA for general use. Further, these two models use actual observed meteorology as input rather than the assumed worst case meteorology used by the Connecticut screening procedure. In any event, the state's terrain handling technique for complex terrain is essentially the same as that in COMPLEX I or II, that is, a constant plume height approach for stable atmospheric conditions and a half-height approach for non-stable conditions. The Connecticut Modeling Guideline is also more conservative than EPA's currently recommended screening model for complex terrain, the VALLEY model, because its model uses centerline concentrations versus the sector averaged concentrations used in the VALLEY model and because it assumes a greater degree of meteorological persistence than the VALLEY model.

The commenter's statement that the Connecticut Modeling Guideline uses a statewide background average is incorrect. As described in the Connecticut Modeling Guideline and in the May 1 NPR, background levels for towns which have no local monitor are derived from the average of data from towns with similar area source emission densities. Actual monitored levels are used for towns in which monitors are located if they are not unduly influenced by nearby sources which would already be explicitly modeled per the Connecticut Modeling Guideline.

EPA disagrees with the commenter's statement that the DEP's model is a "new type of half-way model" that is "more refined than a screening model yet not as refined as a refined model". The Connecticut Modeling Guideline is clearly a screening procedure that is in no way meant to replace any EPA refined models. Following the use of the Connecticut screening procedures, any further refined analysis must be done in accordance with EPA's models and procedures.

The commenter exaggerates the administrative problems that may result from approving separate state screening models. We are dealing here with the approval of a simple screening procedure that allows for an evaluation of its conservatism based on comparing individual assumptions in the procedure with EPA practices. In any event, EPA is not required to reject Connecticut's procedures because of possible administrative problems.

As amended by the July 15, 1981 submittal, the Connecticut Modeling Guideline is at least as conservative as EPA's recommended screening procedures. It will not result in underpredictions in comparison to either EPA screening or refined modeling. The Connecticut model is a modification of the EPA screening model PTMTP. Many of the technical features of the DEP's model, such as the basic dispersion algorithm (the Gaussian plume equation), the dispersion coefficients and the plume rise algorithm, are the same as those in the PTMTP model. In those areas where the DEP's screening procedures differ from EPA's, the Connecticut Modeling Guideline is either equivalent to or more conservative than EPA's procedures. Connecticut has proposed that its SIP include what it believes is a less resource-intensive screening analysis procedure. Because Connecticut's approach is at least as conservative as EPA's method, and thus will protect the NAAQS at least as well, EPA is approving the Connecticut Modeling Guideline for use in the state program.

The commenter argues, however, that under 40 CFR 52.21 (1)(2), EPA may not approve Connecticut's procedures unless the use of EPA procedures is "inappropriate." But EPA does not interpret this regulation in the way suggested by the commenter. First, while EPA's *Guideline on Air Quality Models* (*Guideline*) and its subsequent revisions are applicable more generally, the regulation cited by the commenter governs model substitutions only for Prevention of Significant Deterioration permitting. Second, in allowing the substitution of non-*Guideline* models for *Guideline* models when the *Guideline* models are "inappropriate", the regulation does not rule out substituting non-*Guideline* models or procedures when a state believes they are simpler and less resource-intensive to use and they are at least as conservative as EPA's. The EPA *Guideline* cited by the regulation provides for deviations from individual *Guideline* recommendations without stating any requirement that EPA find such recommendations to be "inappropriate". *See* pp. 1, 13, 14, 18. In approving Connecticut's procedures, EPA is operating pursuant to, rather than departing from, the requirements of the *Guideline*.

2. EPA's Proposed New SIP Revision Procedures

One commenter stated that review for individual source approvals under the SIP was not delegable to the state and that there was "no good cause for eliminating the EPA separate review procedures as required by the Administrative Procedures Act". This commenter also said that EPA could not approve individual sources in advance.

The two other commenters strongly supported the state's authority to conduct the review necessary for compliance with the Clean Air Act. One went on to say that once EPA approved the state's Energy Trade Program, it should not require that individual approvals under the program be submitted as SIP revisions.

EPA has not delegated its SIP review responsibility and has not given final approval to individual sources in advance. It has always been a state responsibility to provide the technical demonstration that a SIP (or a SIP revision) will comply with the air quality requirements of the Clean Air Act. EPA's role is to insure the adequacy of the state's demonstrations. Under the approach to small source approvals proposed in the May 1 NPR, the adequacy of the state's demonstrations will be insured because state demonstrations will be conducted in accordance with the procedures approved today. The program review procedures are sufficiently circumscribed so as to insure that the DEP will only be approving sulfur-in-fuel limitation revisions that will not violate the National Ambient Air Quality Standards (NAAQS). Because of this, EPA proposed on May 1 to approve all small sources to be covered by the program. In addition, each individual state source approval is to be submitted to EPA for approval as a SIP revision. Each submittal will include a certification that the source has been reviewed under the procedures of and meets all requirements of the approved program and the Connecticut Modeling Guideline, a certification that the approved public notice and comment procedures have been followed and copies of all public comments received and any DEP responses to them. Rather than waiting to start the review of state approvals of individual sources after the approvals have occurred, EPA has worked with the state in advance and approved the detailed procedures to be followed.

EPA is not now dispensing with individual review and final rulemaking for small source approvals. That approach was not proposed in the NPR and will not be adopted without first providing an opportunity for public comment on it.

EPA is today reaffirming its intention to use an expedited procedure for small source approvals. EPA's plan to have its public comment periods run concurrently with the state public comment periods, without issuing new NPR's, will substantially accelerate application processing time and eliminate duplication of effort while providing an adequate opportunity for public comment. State and federal public comment periods need not be separate to be productive. The May 1 NPR opened a public comment period to review EPA's proposed approval of the generic state program *and* all the individual applications which will be considered under the new program. The public has already had an opportunity to comment on the procedures which will be employed in approving small sources. The application of the procedures to the small sources will be a straightforward process. Moreover, there will be a public notice and comment period when each individual application is processed, and thus the public will have a further opportunity to comment on specific source approvals. As noted in the NPR, the state will maintain a mailing list of all persons interested in being notified about each proposed individual approval. The elimination of unnecessary duplication for small source approvals will enable EPA to refocus its limited resources on the larger sources. Because the NAAQS will be protected under the review procedures of this program, because adequate opportunities to comment have been and will be provided and because only smaller sources are included in this new expedited procedure, EPA has determined that a second NPR for each individual approval would be impracticable, unnecessary and contrary to the public interest. EPA believes that its new approach is a significant regulatory reform, that there is good cause for it and that the approach is consistent with the Administrative Procedures Act.

3. Protection of the NAAQS

Connecticut's air now meets the NAAQS for sulfur dioxide (SO_2). Although the Energy Trade Program approved today expands Connecticut's interpretation of its SIP regulations governing SO_2 emissions, the SIP as revised today will continue to insure the maintenance of the NAAQS for SO_2. The SIP revision requires that each applicant be analyzed under the Connecticut Modeling Guideline procedures approved today to determine SO_2 NAAQS compliance.

One commenter argues, however, that EPA cannot approve the Energy Trade Program because Connecticut has not attained the secondary NAAQS for total suspended particulates (TSP) and has not yet submitted a plan to attain the secondary TSP standard.

The Clean Air Act does not require that Connecticut's SO_2 implementation plan provide for the attainment or maintenance of the NAAQS for TSP. The Energy Trade Program is a revision to Connecticut's SO_2 implementation plan. It does not change any requirement of Connecticut's SIP which relates to TSP, and any facility approved to burn higher sulfur content fuel under the Energy Trade Program will have to meet the existing TSP emission limit in Connecticut's SIP. EPA is not required to disapprove this SO_2 SIP revision as a sanction for Connecticut's lateness in submitting a secondary TSP attainment plan. Such a sanction would be far more severe than the sanction provided by Congress in Section 110(a)(2)(I) of the Clean Air Act which was applicable in states which were late in submitting primary attainment plans.

In fact, the Energy Trade Program as applied to individual sources or in the aggregate, will not threaten the attainment of the NAAQS for TSP. Analysis of the causes of Connecticut's TSP problem was done in connection with the submission of Connecticut's primary attainment plan and indicated that the problem was due largely to non-traditional sources rather than to the point sources which will be covered by the Energy Trade Program. Moreover, in its primary TSP attainment plan, Connecticut has already committed to adopt RACT controls for various categories of point sources including all point sources which will be covered by the Energy Trade Program. Connecticut agreed to adopt RACT statewide because this control was identified as the control, for the kinds of point sources covered, that would be required as part of Connecticut's secondary attainment plan. *See* 45 FR 84780–84781 (December 23, 1980). Any facility approved to burn higher sulfur content fuel under the Energy Trade Program will be required to meet the more stringent RACT limitations for TSP.

The NAAQS for TSP will also be protected by another provision in Connecticut's Energy Trade Program. As set out in the SIP revision narrative, the DEP will be doing an evaluation of each application to insure that: (1) No NAAQS will be violated or (2) that each approval will not "cause a 'significant' increase in pollutant levels which would exacerbate an existing standard violation." The DEP's definition of "significant" is discussed in the May 1 NPR. In the SIP revision narrative, the DEP provided a rationale for its policy of allowing insignificant increases in TSP. The narrative states that the TSP attainment problem "should be addressed through enforcement action, or if applicable, a SIP revision which would affect the sources causing the

violation in an equitable manner * * *, rather than at the expense of the applicant whose increase in impact is insignificant".

4. PSD

A commenter asserted that the Prevention of Significant Deterioration (PSD) program would be subverted and Connecticut would be losing its clean air margin through the Energy Trade Program. Connecticut is required to operate its Energy Trade Program in accordance with the PSD requirements set forth by Congress as interpreted in *Alabama Power Company* v. *Costle*, 636 F. 2d 323 (D.C. Cir. 1979), and the subsequent EPA regulations. In accordance with the non-uniform baseline date determination required in *Alabama Power Company*, in general the PSD program is initiated when the first source in an area files a PSD permit application and establishes a baseline. Once any baseline date and area have been established in Connecticut, any emissions increases in the baseline area will consume increment, whether resulting from the Energy Trade Program's approvals or any other actions.

The state is not currently administering the PSD program. However, in the Energy Trade Program narrative, the state has committed to review premises to determine whether they impact a baseline area and to provide EPA with sufficient information to administer the PSD program.

On May 21, 1981, the DEP submitted a description of a proposed mechanism for evaluating increment consumption for SIP revisions under the Energy Trade Program as EPA had requested in the NPR. EPA will not give final approval to an individual source under the Energy Trade Program if the source will impact an area in which a baseline date has been set unless the state and EPA have agreed to a mechanism for reviewing increment consumption due to such actions.

5. Other Issues

One commenter stated that EPA had not adequately evaluated whether the Energy Trade Program actually encourages conservation or determined who properly should bear the cost of impact analysis. EPA does not judge SIP revisions by these two concerns.

The commenter also complained that there had been violations of proper procedures at the state administrative level in that the notice of the state hearing was misleading and in that the change in the state's program was accomplished by reinterpreting a regulation rather than changing the regulation. EPA notes that the same commenter participated in the state hearing without raising either of these issues and thus did not give the state a chance to take timely corrective action. The commenter thus may have waived any right to have these issues ruled on subsequently. Moreover, the SIP revisions approved today include opinions by the state Attorney General confirming that the existing state regulations could be utilized in implementing and enforcing the energy trade program. Assuming that the procedural issues raised by the commenter are properly before EPA, EPA finds that the state law issues were adequately addressed by the state Attorney General and that there was reasonable notice and hearing for these SIP revisions, as required by the Clean Air Act.

Another commenter argued that the requirement that each source approved under the Energy Trade Program agree that the resulting order is enforceable under federal and state law is unnecessary and "could raise serious constitutional questions". While EPA agrees that the enforceability of the orders issued under the program would be clear even in the absence of such agreements, the state has included this requirement in its narrative revision, and the commenter produced no evidence that there is any constitutional problem with requiring such agreements.

Attachments #1 and #2 of the December 19, 1980 submittal, entitled "SULFUR DIOXIDE" and "TRANSPORT OF SULFUR DIOXIDE" were not reviewed by EPA because they had no bearing on the new program procedures. EPA is not approving these; they were not described in the Notice of Proposed Rulemaking and will not be incorporated into the SIP under this notice. In addition, the EPA is not approving the "Sample Analysis of the Btu Bubble Application" found in attachment #3, "CONTROL STRATEGIES FOR SULFUR OXIDES", because the DEP has requested that this be deleted from their submittal.

As proposed in the NPR, EPA is also not approving state procedures which are strictly for analysis to determine compliance with Connecticut's 24-hour secondary SO_2 standard.

Actions

1. EPA is approving the "Air Pollution Control/Energy Trade Option" narrative revision to Connecticut's SIP. However, EPA is not approving the procedures to determine compliance with Connecticut's 24-hour secondary SO_2 standard. Further, EPA will not finally approve an individual SO_2 SIP revision under this program for any source which will impact an area in which a PSD baseline date has been set unless the state and EPA have agreed to a mechanism for reviewing the increment consumption due to such SIP revisions.

2. EPA is approving the Connecticut *New Source Ambient Impact Analysis Guideline* for Connecticut's use in projecting potential impacts of point source emissions.

3. EPA is taking no action on the individual source revisions proposed on May 1, 1981. Before final approval, each application must be reviewed and acted upon in accordance with the concurrent State/EPA procedures set forth in this notice and the NPR. No such review of individual sources has yet been completed by the state.

4. EPA is not approving attachments #1 and #2 or the Section titled "Sample Analysis of a Btu Bubble Application" in attachment #3 of the state's December 19, 1980 submittal.

Pursuant to the provisions of 5 U.S.C 605(b) I certify that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. The attached rule constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. This action imposes no new requirements and merely approves state rules. In addition, it provides for greater flexibility and the use of more cost effective measures in meeting existing state requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulation Impact Analysis. This regulation is not major because it will only approve Connecticut state actions enabling sources to meet the existing state requirements with more cost-effective control strategies and greater flexibility and because it adds no new requirements.

The Agency finds that good cause exists for making this action immediately effective since implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

After evaluation of the state's submittal, it has been determined that these Connecticut revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to

the Connecticut State Implementation Plan.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the Second Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

Note.—Incorporation by reference of the State Implementation Plan for the state of Connecticut was approved by the Director of the **Federal Register** on July 1, 1980.

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart H—Connecticut

1. Section 52.370, paragraph (c) is amended by adding subparagraphs (14) and (15) as follows:

§ 52.370 Indentification of plan.

* * * * *

(c) * * *

(14) Non-regulatory additions to the plan which were submitted on December 19, 1980, and amended on March 11, 1981, by the Connecticut Department of Environmental Protection amending the sulfur control stategy to include an "Air Pollution Control/ Energy Trade Option" except for submittal attachments #1 and #2, "SULFUR DIOXIDE" and "TRANSPORT OF SULFUR DIOXIDE" and the section of attachment #3 "CONTROL OF SULFUR OXIDES" entitled "Sample Analysis of a Btu Bubble Application".

(15) Non-regulatory addition to the plan of the state *New Source Ambient Impact Analysis Guideline,* for use in state program actions, submitted on December 19, 1980, and amended on March 11, 1981, and July 15, 1981.

[FR Doc. 81-25227 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-5-FRL 1899-3]

Approval and Promulgation of State Implementation Plans; Ohio and Michigan

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rules and correction of final rule.

SUMMARY: In the April 10, 1981, **Federal Register** (46 FR 21390) EPA proposed to approve as a revision to the Ohio State Implementation Plan (SIP) the deadline by which the State committed itself to remedy the conditionally approved portion of the total suspended particulate (TSP) plan submitted for Middletown, Ohio. In the May 26, 1981, **Federal Register** (46 FR 28179) EPA also proposed to approve, as a revision the Michigan SIP, Rules 283 and 610 of the Michigan Air Pollution Control Commission. EPA provided separate thirty day public comment periods for its proposed approval of both the Michigan and Ohio SIP revisions. No public comments were received on EPA's proposed approval of either SIP revision. The purpose of today's notice is to announce final approval of the schedule deadline for Ohio and Michigan Rules 283 and 610.

EPA is today also correcting an error which was published in March 31, 1981, and June 18, 1981, **Federal Register** (46 FR 19471, 31881). In the regulatory portion of the **Federal Register**, footnote e to § 52.1875 shows a date of December 31, 1982, for attainment of the carbon monoxide standard in Summit County, Ohio which is inapplicable because Summit County is no longer classified as a nonattainment area.

EFFECTIVE DATE: This final rulemaking is effective on September 28, 1981.

ADDRESSES: Copies of the Ohio and Michigan SIP revisions are available at:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604;

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460;

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Richard Clarizio, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6029.

SUPPLEMENTARY INFORMATION:

Ohio SIP Revision

In final rulemaking action published in the March 31, 1981, **Federal Register** (46 FR 19468) EPA identified certain deficiencies in the TSP plan developed and submitted for the Middletown, Ohio primary nonattainment area. EPA also noted in that **Federal Register** that the State of Ohio on February 18, 1981 had committed itself to correct these deficiencies by December 31, 1981. In the April 10, 1981, **Federal Register** (46 FR 21390) EPA proposed to approve the December 31, 1981, date. At that time, EPA provided a thirty day period, until May 11, 1981, during which interested individuals were asked to comment on EPA's proposed approval of the December 31, 1981 date. No public comments were received. EPA, therefore, approves, as part of the Ohio SIP, the state's commitment to the December 31, 1981, date for submittal of the corrective materials for the Middletown, Ohio TSP plan.

Ohio—Correction

Summit County, Ohio is part of the Greater Metropolitan Cleveland Interstate Region (AQCR 174). In AQCR 174, Summit and Cuyahoga Counties were designated by EPA on March 3, 1978 (43 FR 8962), as nonattainment for carbon monoxide. In 40 CFR 52.1875, footnote e specifies that attainment of the carbon monoxide standard will be December 31, 1982 for Summit County and December 31, 1987 for Cuyahoga County. On March 4, 1981 (46 FR 15140), EPA changed the designation of Summit County from nonattainment to attainment/unclassifiable for carbon monoxide. As a consequence of this action, footnote e should have been revised to eliminate the December 31, 1982 attainment date for Summit County, Ohio. In the regulatory portion of the March 30, 1981 and June 18, 1981, **Federal Register** (46 FR 19468, 31881), however, footnote e of § 52.1875 erroneously contained the December 31, 1982 date for Summit County, Ohio. The purpose of today's action is to correct that error by deleting the following phrase from footnote e: For Summit County attainment is to be achieved by December 31, 1982.

Michigan SIP Revision

On July 28, 1980, the State of Michigan submitted to EPA as revisions to the Michigan SIP amendments to Rules 283 and 610 of the Michigan Air Pollution

Control Commission. The amendments to Rule 283 exempt equipment used for hydraulic or hydrostatic testing from the requirements for an operating permit.

The amendments to Rule 610 consist of revisions to Table 62 of the rule. This table lists minimum coating transfer efficiencies for several emission limitations for automobile and light duty truck coating operations. The specific changes in Table 62 were listed in the May 26, 1981 **Federal Register** and are not repeated here. EPA proposed to approve the amendments to Rules 283 and 610 in the May 26, 1981 **Federal Register**. At that time, EPA provided a thirty day period, until June 25, 1981, during which interested individuals were asked to comment on EPA's proposed approval of amended Rules 283 and 610. No public comments were received. EPA, therefore, finally approves, as part of the Michigan SIP, amended rules 283 and 610.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the attached Rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The attached actions merely approve actions already approved by the State of Michigan and Ohio.

Under Executive Order 12291 (Order) EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. Today's actions do not constitute major regulations since they merely approve actions which were developed and approved by the States of Michigan and Ohio. This rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

Under Section 307(b)(1) of the Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by (60 days from the date of application).

Under Section 307(b)(2) of the Act, the requirements which are the subject of today's actions may not be challenged later in civil or criminal proceedings brought to EPA to enforce these requirements.

Note.—Incorporation by reference of the Ohio and Michigan SIP was approved by the Director of the Federal Register on July 1, 1981.

(Sections 110 and 172 of the Act)

Dated: August 8, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

Title 40 of the Code of Federal Regulations, Chapter 1 Part 52 is amended as follows:

(1) Section 52.1870(c) is amended by adding subparagraph (30) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(30) On February 18, 1981, the State of Ohio committed itself to submit by December 31, 1981, the corrective materials for the Middletown, Ohio total suspended particulate plan.

(2) In § 52.1875 footnote e to the table is revised to read as follows:

§ 52.1875 Attainment for national standards.

* * * * *

e. For Cuyahoga County the attainment date is to be achieved by December 31, 1987.

* * * * *

(3) Section 52.1880 is amended by revising paragraph (d)(1) to read as follows:

§ 52.1880 Control strategy: Particulate matter.

* * * * *

(d) * * *

(1) For the Middletown, Ohio primary nonattainment area, Rule 08 of Chapter 3745-17 of the Ohio Administrative Code provided the State submits by December 31, 1981 the individual enforceable control programs required by Rule 08 for each of the fugitive emission sources, located in the primary nonattainment area.

Subpart KX—Michigan

Title 40 of the Code of Federal Regulations, Chapter 1 Part 52 is amended as follows:

(1) In § 52.1170(c) subparagraph (39) is added:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(39) On July 28, 1980, the State of Michigan submitted to EPA, as revisions to the Michigan SIP, amendments to Rules 283 and 610 of the Michigan Air Pollution Control Commission.

[FR Doc. 81-25233 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-3-FRL 1911-4]

Approval and Promulgation of Implementation Plans; Approval of Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On January 28, 1981 (46 FR 9128) EPA proposed approval of a revision to the Pennsylvania State Implementation Plan (SIP) which sets forth a plan which will assure attainment of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) in those portions of Armstrong County, Pennsylvania which were designated as SO_2 nonattainment areas. Today, EPA is announcing final approval of this revision to the Pennsylvania SIP.

EFFECTIVE DATE: September 28, 1981.

ADDRESSES: Copies of the materials submitted by the Commonwealth of Pennsylvania and comments received on these materials may be examined during normal business hours at:

U.S. Environmental Protection Agency, Air Media and Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106; ATTN: Ed Shoener

Department of Environmental Resources, Bureau of Air Quality Control, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120; ATTN: Gary L. Triplett

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Waterside Mall, Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, S.W., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Ed Shoener (3AH11), U.S. Environmental Protection Agency, Region III, 6th and Walnut, Philadelphia, PA 19106; telephone: 215/597-8179.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and September 2, 1978 (43 FR 40515), EPA designated a portion of Armstrong County, Pennsylvania (Madison Township, Mahoning Township, Boggs Township, Washington Township and Pine Township) as a nonattainment area for sulfur dioxide (SO_2). The nonattainment was caused primarily by SO_2 emissions from the West Penn Power Company (WPPC) Armstrong Power Plant. The nonattainment

designation was based on a modeling study done for the Pennsylvania Department of Environmental Resources (DER) which showed significant violations of the annual, 24-hour and 3-hour SO_2 NAAQS in the area surrounding the Armstrong plant.

In order to develop an adequate attainment plan WPPC conducted a fluid modeling (wind tunnel) study in accordance with EPA's "good engineering practice" (GEP) stack height regulations proposed on January 12, 1979, (44 FR 2608), to determine the GEP height for the stack at the Armstrong plant. A dispersion modeling study was conducted in accordance with EPA's dispersion modeling guidelines (Guidelines on Air Quality Models, EPA–450/2–78–027, OAQPS No. 1.2–080, April 1978), to determine the appropriate emission limits. These two studies demonstrated that the SO_2 NAAQS will be met if the stack is raised to a GEP height of 307 meters and the plant meets the emission limits set forth in DER regulation, 25 Pa. Code § 123.22, which are:

(1) 4.8 lbs. $SO_2/10^6$ Btu daily maximum not to be exceeded at any time;

(2) 4.0 lbs. $SO_2/10^6$ Btu daily average not to be exceeded more than two days in any running 30-day period and;

(3) 3.7 lbs. $SO_2/10^6$ Btu 30-day running average not to be exceeded at any time.

A more extensive discussion of these modeling studies and EPA's review was presented in EPA's proposed rulemaking of January 28, 1981 (46 FR 9128) and the correction notice of February 20, 1981 (46 FR 13242).

The taller stack will be constructed by December 31, 1982 in accordance with the schedule for construction set forth in a consent order and agreement between WPPC and DER. The schedule meets the requirements of 40 CFR 51.15(c). The consent order and agreement also includes interim emissions limits to assure reasonable further progress (RFP) towards attainment of the SO_2 NAAQS required by section 172(b)(3) of the Clean Air Act.

In order to expeditiously process this Sip revision EPA proposed approval of the revision concurrently with DER. DER held a public hearing on the proposal on February 25, 1981, in Kittaning, Pennsylvania, in accordance with the requirements of 40 CFR 51.4, and closed the public comment period on March 27, 1981. EPA proposed approval of the revision on January 28, 1981 46 FR 9128, and closed the public comment period on March 27, 1981. DER received two comments, one from WPPC and one from the consulting firm employed by WPPC to do the dispersion modeling, both of which corrected minor errors in the modeling demonstration. Correction of the minor errors resulted in lower projected air quality impacts than initially anticipated. EPA did not receive any comments on the proposal.

On April 9, 1981, DER submitted the revision to EPA in final form. The final submission incorporated the minor corrections noted in the comments mentioned above and also included a copy of the DER/WPPC consent order and agreement signed on April 3, 1981.

Based on the foregoing, it is the decision of the Administrator to approve this plan as satisfying the requirements for a revision of the Pennsylvania SIP.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–642)

Dated: August 20, 1981.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Pennsylvania was approved by the Director of the Federal Register on July 1, 1981.

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

Subpart NN—Pennsylvania

1. In § 52.2020 paragraph (c)(36) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified.

* * * * *

(36) A revision submitted by the Commonwealth of Pennsylvania on April 9, 1981 providing for attainment of the SO_2 NAAQS in portions of Armstrong County, Pennsylvania.

2. In the table in § 52.2034 line d, under Southwest Pennsylvania Intrastate is revised as follows:

§ 52.2034 Attainment dates for national standards.

* * * * *

Southwest Pennsylvania Intrastate					
*	*	*	*	*	
d. Armstrong County					$a^1\ b^3\ c^1\ c^1\ b^1\ b^4\ g^1$.

[FR Doc. 81-25183 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A–6–FRL 1886–1]

Approval and Promulgation of Implementation Plans: Texas Emission Offsets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This rule approves the State submitted revision to the Texas State Implementation Plan (SIP) which was submitted for the purpose of allowing the construction of a dry process cement plant by General Portland Incorporated in New Braunfels, Comal County, Texas under the Interpretative Ruling (emission offset policy). The source is located in an area west of New Braunfels in Comal County which has been determined by modelling to be exceeding the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP). The source will emit more than 100 tons per year of TSP and is therefore subject to the Interpretative Ruling on emission offsets.

TSP emission offsets were offered and agreed to by Parker Brothers and Co., Inc.; the State of Texas submitted the offsets in Texas Air Control Board (TACB) Order No. 78–8 under the Governor's signature on September 13, 1978. EPA reviewed it and found that none of the offsetting TSP emission reductions are required control measures under the currently approved SIP. Therefore they are acceptable as offsets. The notice proposing approval of this revision was published in the Federal Register on December 1, 1980, at 45 FR 79514.

EFFECTIVE DATE: Effective on September 28, 1981.

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

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

Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 "M" Street, N.W., Washington, D.C., Rm. 2922.

FOR FURTHER INFORMATION CONTACT: Estela S. Wackerbarth, Chief, Implementation Plan Section, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767–1518.

SUPPLEMENTARY INFORMATION: On December 1, 1980, at 45 FR 79514, EPA proposed to approve emission offsets which were submitted as a Texas SIP revision for General Portland Inc. Offsetting emissions were offered and agreed to by Parker Brothers and Co., Inc. Public Comments were solicited but none were received. Therefore, EPA is hereby approving the incorporation of Board Order 78–8 into the Texas SIP.

A complete discussion of the proposed offsets is found in EPA's notice of proposed approval, 45 FR 79514, December 1, 1980. Briefly stated, the offsets were obtained from Parker Brothers and Co., Inc. in order to permit General Portland, Inc. to construct a dry process cement plant in New Braunfels, Comal County, Texas. The TSP emissions reduced at the Parker Brothers plant totalled 1,013 tons; General Portland's new plant would emit 950 tons. Therefore, there is a net air quality benefit. The emission reductions were obtained by installing a fabric filter on the primary crusher and on the secondary crusher and screens.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of August 28, 1981. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it is merely approving a State action. It will impose no new regulatory burden.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of Texas was approved by the Director of the **Federal Register** on July 1, 1981.

(Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.)

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart SS—Texas

1. In § 52.2270, (c) is amended by adding paragraph (26) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(26) Board Order No. 78–8 creditable as emission offsets for the General Portland, Inc., project in New Braunfels, Comal County, Texas, was submitted by the Governor on September 13, 1978, as an amendment to the Texas State Implementation Plan (see § 52.2276).

2. In Subpart SS of Part 52, § 52.2276 is amended by adding new paragraphs (b) and (c) to read as follows:

§ 52.2276 Control Strategy and Regulations: Particulate Matter.

* * * * *

(b) Notwithstanding any provisions to the contrary in the Texas Implementation Plan, the control measures listed in paragraph (c) of this section shall be implemented in accordance with the schedule set forth below.

(c) No later than January 1, 1980, Parker Brothers and Co., Inc., at its limestone quarry facilities near New Braunfels, Comal County, Texas shall install fabric filters on the primary crusher and on the secondary crusher and screens, meeting the requirements of Appendix A of the Texas Air Control Board Order 78–8 adopted August 11, 1978. After the date of installation of the fabric filters, Parker Brothers and Co., Inc., shall not emit particulate matter in excess of 0.03 grains per standard cubic foot from the exhaust stack of the fabric filter on its primary crusher and shall not emit particulate matter in excess of 0.03 grains per standard cubic foot from the exhaust stack of the fabric filter on its secondary crusher and screens.

[FR Doc. 81-25232 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-4-FRL 1879-8]

Designation of Areas for Air Quality Planning Purposes: Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking changes the attainment status relative to the sulfur dioxide (SO_2) National Ambient Air Quality Standards (NAAQS) for Montgomery and Greene Counties in Ohio. On March 9, 1981 (46 FR 15744), the U.S. Environmental Protection Agency (EPA) proposed to redesignate the nonattainment areas in Montgomery and Greene Counties to attainment for SO_2, thus making these counties full attainment. No public comments were submitted on the proposed redesignation. This notice announces EPA's final rulemaking.

DATE: This final rulemaking becomes effective September 28, 1981.

ADDRESSES: Copies of the redesignation request, the Notice of Proposed Rulemaking (46 FR 15744), and EPA's evaluation are available for inspection during normal business hours at the following address: United States Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the submittal are also available at:

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

Ohio Environmental Protection Agency, P.O. Box 1049, Columbus, Ohio 43216

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added Section 107(d) to the Clean Air Act (the Act) which directed each state to submit to the Administrator of EPA a list of the NAAQS attainment status for all areas within the state. The Administrator was required to promulgate the state lists, with any necessary modifications. The Administrator published these lists in

the Federal Register on March 3, 1978 (43 FR 8962), and made necessary amendments in the Federal Register on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation.

On March 3, 1978 (43 FR 8962), EPA designated Montgomery and Greene Counties, Ohio nonattainment for the primary SO_2 NAAQS. EPA amended the designations on October 5, 1978. For Montgomery County (43 FR 46015), EPA retained the primary nonattainment designation for the entire area southeast of the following line: Route 4 northeast to Union Road; Union Road north to Route 70; Route 70 east to county boundary; and designated the remainder of the county attainment. For Greene County (43 FR 46014), EPA retained the primary nonattainment designation for Bath Township and designated the remainder of the county attainment.

At the time of the above designation, a number of sources in Montgomery and Greene Counties were not in compliance with the Federally promulgated SO_2 SIP emission limitations. On January 17, 1980, Ohio EPA requested that the nonattainment areas in Montgomery and Greene Counties be redesignated to attainment for the SO_2 NAAQS. Ohio EPA claimed that the SO_2 sources in these two counties were in compliance with the existing allowable emission levels. EPA established the SO limits for these counties after a comprehensive analysis using RAM-urban modeling techniques. These limits were demonstrated by EPA to be adequate to ensure attainment and maintenance of the NAAQS. Consequently, a certification of compliance with these emission limitations would be adequate proof that the NAAQS would be protected and would be an acceptable basis for redesignation of the two counties.

In a November 25, 1980 letter, the Ohio EPA substantiated its claim that the SO_2 sources in Montgomery and Greene Counties were in compliance with the current regulations. Ohio EPA certified that all sources in these counties were in compliance with the emission limitations in effect on that date with the exception of the Wright Patterson Air Force Base (WPAFB) in Greene County. Since then, however, EPA has promulgated revised emission limits for WPAFB (46 FR 17550, March 19, 1981). Ohio EPA certified that WPAFB is in compliance with its revised limits.

EPA, therefore, on March 9, 1981 (46 FR 15744) proposed to redesignate Montgomery and Greene Counties to attainment of the SO_2 NAAQS. The basis for the redesignation was Ohio EPA's certification that sources in Montgomery and Greene Counties are in compliance with the existing SO_2 emission limitations and is supplemented by the available monitoring data, collected in and around the current nonattainment areas, which show no recent violations of the NAAQS for SO_2.

It was noted in the March 9, 1981 notice of proposed rulemaking that EPA's final rulemaking on the Montgomery and Greene Counties redesignation request could not be processed until EPA promulgated the revised WPAFB emission limit. Since EPA's final rulemaking on the WPAFB SIP revision was published on March 19, 1981, all the sources in Montgomery and Greene Counties are now in compliance with the current regulations.

Interested parties were given until April 8, 1981 to comment on the proposed redesignation. No public comments were received. Therefore, pursuant to Section 107 of the Clean Air Act, EPA approves the redesignation as proposed in the March 9, 1981 Notice of Proposed Rulemaking. This redesignation will result in all of Montgomery and Greene Counties being classified as attainment for SO_2. The redesignation is effective September 28, 1981.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of date of final rulemaking. Under Section 307(v)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but only changes air quality designations. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action.

Under Executive Order 12291 (Order), EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. Today's action does not constitute a major regulation because it only changes an area's air quality designation and imposes no regulatory requirements. Any regulatory requirement which may occur as a result of this action will be dealt with in a separate notice. This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

(Section 107 of the Clean Air Act as amended (42 U.S.C. 7407))

Dated: July 30, 1981.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.336 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended. In the table for "Ohio—SO_2" the entries for Greene and Montgomery Counties should read as follows:

§ 81.336 Ohio.

Ohio—SO_2

	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Ohio Counties:				
* * *	*	*	*	*
Greene				X
* * *	*	*	*	*
Montgomery				X
* * *	*	*	*	*

[FR Doc. 81-25229 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Twenty-Second Revised Service Order No. 1473]

Various Railroads Authorized to Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: August 24, 1981.

AGENCY: Interstate Commerce Commission.

ACTION: Twenty-Second Revised Service Order No. 1473.

SUMMARY: Twenty-Second Revised Service Order No. 1473 authorized various railroads to use tracks and/or facilities of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

EFFECTIVE DATE: 12:01 a.m., August 25, 1981, and continuing in effect until 11:59 p.m., September 30, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTARY INFORMATION: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for implementation of long range solutions for continued rail service over RI lines, and in consideration of a recent complaint by the Trustee regarding the absence of compensation for the use of this property by certain rail carriers, the Railroad Service Board (RSB) hereby reminds any carriers which haven't negotiated such compensation to do so in the interest of continued operations. Compensation to the Trustee is an integral part of the interim authority and an obligation of all interim operators as specified by paragraph (c) of the order.

Appendix A, to the previous order, is revised by adding at Item 5, V., the authority for the Chicago and North Western Transportation Company (CNW), to operate between Hollis and Iowa Junction, Illinois.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B of this order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1473 Service Order No. 1473.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a) of this section.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least thirty (30) days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a) of this section, operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers, as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect

transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A 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 that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the cariers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximium extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., August 25, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. September 30, 1981, unless otherwise modified, amended, or vacated by this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of the agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Direcfor, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TP&W):*

A. Keokuk, Iowa.

Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (C&NW):*

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. From Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 384).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7)

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9).

K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2)

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. From Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).

P. Sibley, Iowa.

Q. Worthington, Minnesota.

R. Altoona to Pella, Iowa.

S. Carlisle to Indianola, Iowa.

T. Omaha, Nebraska, (between milepost 502 to milepost 504).

U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

+V. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*

A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. Washington, Iowa.

C. From Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. From Davenport to Iowa City, Iowa.

E. At Davenport, Iowa.

7. *Davenport, Rock Island and North Western Railway Company (DRI):*

A. Moline, Illinois.

B. Rock Island, Illinois, including 26th Street yard.

C. From Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.

D. From Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island Arsenal.

8. *St. Louis Southwestern Railway Company (SSW):*

A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. At North Topeka and Topeka, Kansas.

9. *Little Rock & Western Railway Company:* From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 138.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

10. *Missouri Pacific Railroad Company:* From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).

11. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*

A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth.

B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas.

C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma.

D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas.

E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only.

F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas.

G. Rock Island right to use interchange tracks to interchange with the Great Southwest Railroad Company located in Grand Prairie, Texas.

H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at

mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.

I. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.

J. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

12. *Norfolk and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

13. *Southern Railway Company:*

A. At Memphis, Tennessee.

14. *Cadillac and Lake City Railroad:*

A. From Sandown Junction (milepost 0.1) to and including juction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado.

B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

C. From Limon, Colorado (milepost 532) to but not including Caruso, Kansas (milepost 429.3), with over-head rights from Caruso to Colby, Kansas, in order to effect interchange with the Union Pacific.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado.

15. *Baltimore and Ohio Railroad Company:*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

16. *Cedar Rapids and Iowa City Railway Company (CIC):*

A. From the west intersection of Lafayette Street and South Capitol Street, Iowa City, Iowa, southward for approximately 2.2 miles, terminating at the intersection of the RI tracks and the southern line of Section 21, Township 79 North, Rauge 6 West, Johnson County, Iowa, including spurs of the main trackage to serve various industry; and to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

17. *Keota Washington Transportation Company:*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

18. *The La Salle and Bureau County Railroad Company:*

A. From Chicago (milepost 0.60) and Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. From Gresham (Subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

19. *The Atchinson, Topeka and Santa Fe Railway Company:*

A. At Alva, Oklahoma.

20. *The Brandon Corporation:*

A. From Clifton, Kansas (milepost 197.0), to Manhattan, Kansas (milepost 143.0), a distance of approximately 53 miles.

21. *Iowa Northern Railroad:*

A. From Cedar Rapids, Iowa (milepost 100.5), to Waterloo, Iowa (milepost 150.76).

B. From Shell Rock, Iowa (milepost 172.1), to Nora Springs, Iowa (milepost 211.40).

—C. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

+ Added.

– Changed.

[FR Doc. 81-25196 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1127

[Ex Parte No. 293 (Sub-No. 8)]

Standards for Determining Commuter Rail Service Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Publication of Interpretation No. 10.

SUMMARY: The Rail Services Planning Office (RSPO) is issuing an interpretation of the Standards for Determining Commuter Rail Service Continuation Subsidies (Standards) in response to a petition filed by Southeastern Pennsylvania Transportation Authority (SEPTA). SEPTA's petition involves the definition of the term "reasonable" in connection with the net avoidable costs required to be paid by a subsidizer for the provision of commuter service. More specifically, SEPTA's petition raises the issue of reasonableness with respect to labor costs that result from the work rules contained in current labor contracts. It is RSPO's position that all costs incurred by the operator of commuter service as a result of current labor contracts are "reasonable" expenses of providing commuter service and as such must be paid for by the subsidizer.

FOR FURTHER INFORMATION CONTACT:

Stephen M. Grimm (202) 275–0839.

SUPPLEMENTARY INFORMATION:

Interpretation No. 10, August 24, 1981.

On July 10, 1981, the Southeastern Pennsylvania Transportation Authority (SEPTA) petitioned the Rail Services Planning Office (RSPO) for an interpretation of the Standards for Determining Commuter Rail Service Continuation Subsidies (Standards) and for a determination of the adequacy of SEPTA's Offer of Financial Assistance to Conrail for the subsidized operation of commuter rail service for the fiscal year beginning July 1, 1981. SEPTA's petition for an interpretation of the Standards is concerned with the definition of the term "reasonable" for purposes of determining the net avoidable costs that SEPTA must pay to Conrail for providing the requested commuter service. However, SEPTA has only specifically questioned and stated its position on the issue of reasonableness with respect to those costs that result from current labor work rules. Accordingly, this interpretation only addresses the reasonableness of these costs. This is because section 1127.4 of the Standards limits our issuance of an interpretation to those issues that are specifically raised in a petition and for which the petitioners set forth their position and rationale.

We note that SEPTA's request for a determination of the adequacy of its offer has been addressed by RSPO in a separate letter and, thus, need not be considered here.

SEPTA's petition results from a dispute between SEPTA and Conrail. On April 29, 1981, SEPTA served an Offer of Financial Assistance upon Conrail which contained SEPTA's estimate of the costs of operating the rail commuter service for the fiscal year beginning July 1, 1981. SEPTA estimated that the operation of the service would cost $93 million dollars based on a number of cost and service reduction measures. These cost reductions were primarily the product of labor work rule changes which Conrail would have to make on SEPTA's behalf. In effect, SEPTA's offer to Conrail was conditioned on Conrail undertaking certain modifications of the work rules contained in the current labor contracts.

SEPTA's position as stated in its petition is as follows:

* * * the cost Conrail may properly charge are the expenses of providing service in a reasonable, efficient, and economical fashion. They do not include expenses which result from waste, inefficient operation, or extravagance on Conrail's part.

In support of its position, SEPTA asserts that Conrail has not exercised reasonable cost controls and states that the cost of operating the service has risen rapidly since Conrail was formed in 1976. According to SEPTA a major cause of the escalating costs of the service are Conrail's archaic and inefficient labor practices. They contend that this is contrary to Congress's desire that commuter rail service be operated in a reasonable and economical manner by Conrail.

In its response to SEPTA's petition, Conrail states that they are required to incur these labor costs as a result of "valid, legal, binding, existing labor agreements." Moreover, Conrail points out that it does not have the ability to implement SEPTA's changes without the agreement of its unions. Conrail also notes that the actions demanded by SEPTA, "would necessitate renegotiating all of Conrail's labor agreements within the parameters established by SEPTA even though Conrail can only effect changes in those agreements through the complicated renegotiation provisions of the RLA." In conclusion, Conrail submits that any proposal by SEPTA to exclude any actual costs incurred by Conrail under the existing labor contracts is improper.

We agree that every effort should be made by the operator to provide service in a reasonable and efficient manner. Also, we are sympathetic to the financial constraints of SEPTA and other commuter authorities and the accompanying need to closely monitor the costs of providing service. Accordingly, RSPO will be available to rule on future issues concerning the reasonableness of a specific cost. However, in this instance we find that the inclusion of labor costs which are incurred by Conrail as a result of existing labor agreements are "reasonable" costs of providing service and, therefore, are properly includable as an avoidable cost which must be paid by the subsidizer. Further, to rule that these labor costs, which are not within the exclusive control of the operator, are unreasonable would result in Conrail's freight revenues subsidizing the commuter service. This is not permissible because cross subsidization of commuter operations by the freight service is specifically prohibited by the compensation principles incorporated in the Final System Plan issued pursuant to the 3R Act of 1973.

We are aware that in its latest labor negotiations Conrail has effected changes in its labor contracts with the unions for both commuter and freight operations. These changes actually reduced the labor expenses of SEPTA and other commuter authorities. These reductions were undertaken by Conrail upon its own initiative and were not the result of any demands by a commuter authority. Thus, in our view Conrail's action in obtaining these labor cost reductions should help to dispell SEPTA's concern that Conrail will incur expenses in a wasteful and extravagant manner.

This interpretation is issued under the authority of 49 USC 10362 and 10363. By Alexander Lyall Morton, Director, Rail Services Planning Office.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25195 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking and Importing of Marine Mammals; Taking of Marine Mammals Incidental to Commercial Fishing Operations; Permits; Clarification

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Clarification of final rule.

SUMMARY: On August 19, 1981, NOAA published (46 FR 42068–42070) final rules effecting a mid-course correction to regulations previously published at 45 FR 72178–72196 and corrected at 45 FR 73486 concerning the taking of porpoises incidental to commercial tuna purse seine fishing in the eastern tropical Pacific Ocean. This correction modified the apportionment to individual porpoise stocks of the total allowable annual mortality limit for U.S. vessels of 20,500 animals for the years 1981–1985 and beyond. The purpose of this notice is to confirm the entire text of the rules promulgated at 46 FR 42068–42070 and to clarify that the appropriate signatory is the individual indicated in the signature line below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, NMFS, NOAA, Department of Commerce, Washington, D.C. 20235. Telephone (202) 634–7461.

Dated: August 24, 1981.

Robert K. Crowell,

Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 81-25272 Filed 8-27-81; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 167
Friday, August 28, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [1]

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Frozen Cauliflower

Corrections

In FR Doc. 81-23566 appearing at page 41077 in the issue of Friday, August 14, 1981, make the following changes:

1. On page 41078, first column, eighth line from the bottom, "impac" should read "impact"; third column, § 2852.721, fourth line should read "(*Brassica oleracea botrytis*). The ".

2. On page 41079, first column, § 2852.723(b), fourth line, "eatin" should read "eating", and in paragraph (e), third line, "frm" should read "from"; Second column, § 2852.723 (j), first line, "othe" should read "other", and paragraph (n) should read as follows:

"(n) *Square centimeter* (cm^2) means individual squares of 1 cm on an edge, e.g., 5 square centimeters (5 cm^2) means an area in the shape of a rectangle 1 cm by 5 cm."

3. On page 41079, third column, § 2852.727, Table I, second column, third entry ("Seriously"), the "X" should be removed from "Minor" and placed under "Major".

4. On page 41080, first column, § 2852.727, Table IA, second column, third entry ("Seriously"), the "X" should be removed from "Minor" and "Major" and placed under "Severe".

BILLING CODE 1505-01-M

[1] The Commodity Services Program of the Food Safety and Quality Service of the U.S. Department of Agriculture (USDA) was transferred to the Agricultural Marketing Service of USDA by USDA Secretary's Memorandum 1000-1 issued June 17, 1981. A notice detailing the agencies' reorganization is being drafted for later publication.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Rules of Practice and Procedures; Administrative Proceedings; Equal Access to Justice Act

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") proposes to amend its Rules of Practice and Procedures, which contain rules for the conduct of administrative proceedings before the FDIC. The proposal would add a new subpart to the Rules of Practice and Procedures to implement the Equal Access to Justice Act. That Act will allow certain parties to prevail against the FDIC in contested administrative proceedings to recover their litigation expenses from the FDIC, if the position of the FDIC in the proceeding was not substantially justified. The Congress has instructed all affected agencies to adopt implementing regulations. In response to this directive, the proposed new subpart would establish procedures for prevailing parties to use in applying for fee awards and for the FDIC to use in determining whether the conditions for a fee award have been met and, if so, the proper amount for the award. Additionally, the proposal would amend preexisting subparts of the Rules of Practice and Procedures to delegate certain responsibilities to the FDIC's Executive Secretary and to correct certain procedural impediments to efficient operation. These proposed changes are intended to enhance agency capability and responsiveness. The changes would delegate authority to the Executive Secretary to perform many ministerial functions similar to duties of clerks of court, and certain duties now handled by the Executive Secretary would be performed by the administrative law judge.

DATE: Comments must be submitted on or before October 27, 1981.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: On fee awards, Brian D. Alprin, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 (202-389-4637); on all other subjects, James L. Meador, Attorney, or Arthur L. Beamon, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 (202-389-4422).

SUPPLEMENTARY INFORMATION: The first part of the proposed amendment deals with fee awards under the Equal Access to Justice Act. The second part makes technical changes to the FDIC's Rules of Practice and Procedures. Neither part of the proposed amendment would affect the recordkeeping or reporting requirements or the competitive status of any insured State-chartered nonmember bank. The two parts of the proposed amendment are discussed below separately.

Equal Access to Justice Act

The Equal Access to Justice Act ("the Act"), Pub. L. No. 96-481, tit. II, 94 Stat. 2325 (1980), takes effect on October 1, 1981. Once it is effective, the Act will provide for the award of attorney fees and other expenses to certain parties who prevail over the FDIC and other agencies of the Federal government in certain administrative and court proceedings. The Act requires the FDIC to establish uniform procedures for making such awards. To comply with this statutory directive, the FDIC proposes to add a new Subpart M to its Rules of Practice and Procedures, 12 CFR Part 308.

In enacting the Equal Access to Justice Act, Congress intended to diminish the deterrent effect that the cost of contesting adversarial government action imposes on small businesses and individuals of moderate means. Proposed Subpart M has been drafted in an attempt to effectuate this congressional intent. The attempt has also been made to implement the intent of Congress on narrower matters, such as who may be considered a "prevailing party." On this and other questions, the legislative history of the Act has provided the FDIC with guidance. The proposed new subpart has also been

drafted to minimize the expense and inconvenience to prevailing parties who file applications for a fee award. Another consideration has been to develop procedures that are similar to procedures already in use in other FDIC proceedings, but that eliminate unnecessary burdens and discourage avoidable delay. It is hoped that the procedures chosen will permit a smooth transition from the underlying proceeding to the fee-award process, will reduce confusion, and will permit a justified fee award to be made as expeditiously as possible.

A valuable source for the proposed subpart was the model rules for Federal agencies issued by the Office of the Chairman of the Administrative Conference of the United States on June 18, 1981 (46 FR 32,900, June 25, 1981). Many sections of proposed subpart M have been based on the model of the Administrative Conference.

The procedures of proposed Subpart M will apply to administrative proceedings conducted by the FDIC in which a formal hearing under the Administrative Procedure Act is available. These are proceedings pertaining to the following: involuntary termination of insured status, issuance of cease-and-desist orders, assessment of civil money penalties, removal or suspension from office or prohibition from participation in the affairs of a bank of directors, officers, or other persons (except when done pursuant to section 8(g) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(g)), disapproval of a proposed acquisition of control of an insured nonmember bank, and imposition of sanctions upon muncipal-securities dealers, clearing agencies, and transfer agents within the FDIC's supervisory jurisdication. After an eligible party has prevailed in one of these proceedings, it may file an application for certain of its fees and other expenses if it believes that the position of the FDIC in the proceeding was not substantially justified. Approval or denial of a fee award will be recommended by the administrative law judge who presided at the underlying proceeding, based on criteria set out in the Act and in Subpart M. The Board of Directors of the FDIC will then issue an order on the fee award. If one is approved, the FDIC will pay the award unless judicial review of the award or the underlying action has been sought.

Proposed § 308.97 sets out the types of applicants who are entitled by the Act to seek an award. The Act establishes net-worth ceilings of $1 million for individual applicants and $5 million for businesses and other entities that are not individuals. The Administrative Conference has recommended that the net worth of an applicant be aggregated with that of its "affiliates" in determining whether the applicant is under the net-worth ceiling. The FDIC would adopt this approach. The purpose of the congressionally mandated net-worth ceiling is to limit the benefits of the Act to those entities whose shortage of available funds discourages them from challenging adversary governmental action. When an applicant is affiliated with other entities, the net worth of those entities will frequently be available to the applicant to defray its litigation expenses. In such instances, the net worth of the applicant alone provides a poor measure of the financial disincentive to the applicant to contest governmental action. To avoid injustice and provide flexibility, however, the FDIC proposes to permit the Board of Directors, on the advice of the administrative law judge or otherwise, to decline to aggregate the net worth of one or more "affiliates" with that of the applicant when the actual relationship between the entities makes aggregation unjust. Conversely, there may be instances when the net worth of an entity that does not meet the technical test of an "affiliate" should be aggregated with that of the applicant. The proposal would permit the Board to determine that such a situation constitutes "special circumstances that would make an award unjust," in which case the Act does not require an award to be made. The FDIC invites comments on the aggregation questions posed above.

Aggregation would not require that the net worth of any entity be doubled by reason of an imperfection in the accounting technique used to perform the aggregation. The FDIC does not expect an applicant simply to add in the net worth of its affiliates when that would misrepresent the true net worth of the consolidated entity. The proposed regulation provides for a suitable adjustment to avoid doubly counting any entity's net worth.

The Administration Conference has proposed that "affiliate" for the purposes under discussion include any entity (including an individual) that directly or indirectly controls or owns a majority of the voting shares of the applicant, as well as any entity (not including an individual) controlled by the applicant to the extent of a majority of the entity's voting shares. Application of this test to banking entities would cause the aggregation of the net worth of majority-owned subsidiaries of an applicant bank, and the aggregation of the net worth of a bank-holding company that owns a majority of the stock of the applicant bank. While the appropriateness of applying such a system of aggregation to banks is not free from doubt, the proposed regulation adopts this system. The FDIC invites comments on this aspect of the regulation, particularly in comparison to the alternative of eliminating the requirement of aggregating the net worth of a bank-holding company unless failure so to aggregate would make an award unjust.

Section 308.98 of the proposed subpart provides guidance on what is a "prevailing party." The section is an attempt to codify the legislative history regarding the level of success in the proceeding that is necessary to qualify a party to apply for a fee award. *See* H.R. Rep. No. 96-1418, at 11 (1980); H.R. Rep. No. 96-1005, Part 1, at 6, 11 (1980). Section 308.98 states that an applicant may have prevailed although it has not totally avoided adverse final action or although all the issues were not resolved in its favor. This section should not be interpreted to mean, however, that a respondent has "prevailed" in all cases when the Board of Directors administers fewer sanctions or less severe sanctions than the Notice called for.

Section 308.100 would establish guidelines for the amount of an award. Its provisions draw mainly from the Act. One proposed provision deserves special explanation. The Act provides that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the agency. The FDIC has had no experience in paying expert witnesses. Until it may acquire such experience, the FDIC will consider the applicable ceiling to be an hourly rate computed from the prevailing government-wide ceiling on annual employee salaries, a method suggested by the Administrative Conference.

Section 308.102 would set down rules regarding a statement of the applicant's net worth. The section seeks to provide for disclosure of all facts necessary to determine the applicant's eligibility under the applicable net-worth criterion, while minimizing the compliance burden on the applicant or any affiliate. Thus, no precise reporting form is prescribed, and audited statements are not required unless requested by the administrative law judge or the Board. Also, financial statements or filings with State or Federal agencies, prepared shortly before the initiation of the underlying proceeding, are acceptable unless statements that are accurate as of the initiation date are specifically requested

by the administrative law judge or the Board. The FDIC believes that the increase in reporting accuracy that would result from the preparation of an *ad hoc* statement would be outweighed in most cases by the additional burden that preparation of the *ad hoc* statement would entail. In a similar vein, the proposed regulation provides that a bank shall submit, as a statement of its net worth, its last call report dated prior to the initiation of the underlying proceeding in lieu of an *ad hoc* statement. In view of the trustworthiness of call reports in establishing the size of a bank's capital account as of the call-report date, and the ease of filing a copy of a document that already exists, the FDIC believes that the marginal inaccuracy resulting from the lapse of time between the call-report date and the initiation date of the proceeding can usually be overlooked. If it should appear, however, that the discrepancy between net worth on these two dates may be material to determining the applicant's eligibility for an award, the administrative law judge or the Board may call for additional information.

The proceedings that would follow the submission of an application are designed to promote prompt disposition of the fee-award request. Time periods for filing papers are generally short, and extensions of time and unnecessary follow-up filings are discouraged. Thus, replies are permitted only in response to answers that raise affirmative defenses, and participation by non-applicant parties to the underlying proceeding is kept to a minimum. Hearings on the application are permitted only when factual issues are in dispute and cannot be adequately resolved through written submissions. It is hoped that by promoting a streamlined decisional process on the fee award, the FDIC can eliminate wasteful delay and, when an application is meritorious, provide the deserving applicant with reimbursement soon after the resolution of the underlying controversy.

Technical Changes to Rules of Practice and Procedures

The FDIC would make the following technical changes to the FDIC's Part 308 Rules of Practice and Procedures:

1. The term "FDIC" would be defined as the Federal Deposit Insurance Corporation. Currently, the term "Corporation" is used in Part 308 to refer to the FDIC. Since there are many entities which may be called "corporations," it is believed this change would eliminate potential for confusion of users of Part 308.

2. The Executive Secretary would be delegated authority to rule on attorney qualification to practice before the agency, issue subpoenas, order depositions, give notice to the parties that a case has been submitted to the Board, rule on certain motions, and perform other duties similar to those performed by clerks of court.

3. The changes provide for certain actions now performed by the Executive Secretary, such as notice of filing of transcripts and service of recommended decisions, to be performed by the administrative law judge.

4. The changes clarify procedures for filing a response or opposition to a motion for issuance of a subpoena or a request for deposition of a witness by parties and by persons named in a subpoena or subpoena duces tecum.

5. The proposal includes new rules relating to the conduct of oral argument before the Board of Directors.

6. The proposal would require the filing of an answer to all notices under Part 308 unless the respondent admits the allegations of the notice.

7. The time for filing a written request for hearing, upon notice of suspension or removal from office, upon notice of assessment of a civil money penalty, upon notice of disapproval of a proposed acquisition of control, and upon notice of denial of an application under section 19 of the Federal Deposit Insurance Act, would be measured from the date of receipt of notice rather than from date of service of the notice as under the current regulation.

8. The proposal would designate the FDIC's Division of Accounting and Corporate Services as agent for receipt of payment of civil money penalties.

9. The period of time for payment of a civil penalty assessment would be shortened to 60 days after issuance of the notice of assessment from 90 days under current regulations.

10. The proposal would establish procedures and standards applicable to a petition for reconsideration of denial of an application to serve as a director, officer, or employee of an insured bank under section 19 of the Federal Deposit Insurance Act. Under the current regulation, no specific reference to procedure for such a petition is provided.

11. The proposal would remove the requirement for attaching the views and recommendations of the appropriate state bank supervisory agency to any finding relating to an application for approval of an acquisition of control submitted to the FDIC.

12. Certain other minor changes in the language of Part 308 would be made as set out below.

Certification Under Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Board of Directors certifies that the amendments proposed here, if promulgated, would not have a significant economic impact on a substantial number of small entities.

1. The proposed Subpart M, implementing the Equal Access to Justice Act would affect only those small businesses that prevail in one of the proceeding referred to in proposed § 308.96. In such proceedings since October 1, 1978, only three businesses of any size have prevailed within the meaning of the proposed subpart. Based on this history, the proposed new subpart cannot be expected to affect a substantial number of small entities.

2. The other proposed changes to the Rules of Practice and Procedures are technical in nature and involve either agency procedure or the style or readability of the rules. No significant economic impact on any insured bank or other business would be occasioned by the adoption of these changes.

PART 308—RULES OF PRACTICE AND PROCEDURES

For the reasons set out in the preamble, Part 308 of Chapter III of Title 12 of the *Code of Federal Regulations* is proposed to be amended as shown.

1. By revising the citation of authority for Part 308 to read as follows:

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94–29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95–630, 92 Stat. 3641 (12 U.S.C. 1972); sec. 203, Pub. L. No. 96–481, 94 Stat. 2325 (5 U.S.C. 504).

2. By adding a new Subpart M to Part 308 to read as follows:

Subpart M—Rules and Procedures Relating to the Recovery of Attorney Fees and Other Expenses

Sec.

308.96 Scope.
308.97 Eligibility of applicants.
308.98 Prevailing party.
308.99 Standards for awards.
308.100 Measure of awards.
308.101 Contents of application.
308.102 Statement of net worth.
308.103 Statement of fees and expenses.
308.104 Filing and service of documents.
308.105 Answer to application.
308.106 Comments by other parties.
308.107 Further proceedings.
308.108 Recommended decision.
308.109 Decision of the Board of Directors.
308.110 Payment of awards.

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94–29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L.

No. 95-630, 92 Stat. 3641 (12 U.S.C. 1972); sec. 203, Pub. L. No. 96-481, 94 Stat. 2325 (5 U.S.C. 504).

Subpart M—Rules and Procedures Relating to the Recovery of Attorney Fees and Other Expenses

§ 308.96 Scope.

This subpart, and the Equal Access to Justice Act (5 U.S.C. 504 and 504 note) which it implements, apply to adversary adjudications that are pending before the FDIC at any time between October 1, 1981, and September 30, 1984. The types of adjudication covered by this subpart are those listed in § 308.03

§ 308.97 Eligibility of applicants.

(a) To be eligible for an award under this subpart, an applicant must have been named or admitted as a party to the proceeding. In addition, the applicant must show that it meets all other conditions of eligibility set out in this subpart.

(b) The types of eligible applicant are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) A sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees; and

(3) A corporation, association, partnership, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which he or she prevails are related primarily to personal interests rather than to business interests.

(d) For the purpose of determining eligibility, the net worth of an applicant shall be its net worth as of the date the underlying proceeding was initiated. As provided in § 308.102(d), in the case of a bank, net-worth information reported in conformity with applicable instructions and guidelines on the bank's last Consolidated Report of Condition filed before the initiation of the underlying proceeding will be used in establishing the bank's net worth as of the date the underlying proceeding was initiated.

(e) The employees of an applicant include all those persons who were regularly providing services for remuneration for the applicant, under its direction and control, on the date the proceeding was initiated. Part-time employees are included as though they were full-time employees.

(f) An applicant's net worth includes the value of any assets disposed of for the purpose of meeting an eligibility standard and excludes any obligations incurred for this purpose. Transfers of assets or obligations incurred for less than reasonably equivalent value will be presumed to have been made for this purpose.

(g) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. The aggregated net worth shall be adjusted if necessary to avoid counting the net worth of any entity twice. As used in this subpart, "affiliates" are (1) individuals, corporations, and entities that directly or indirectly or acting through one or more entities control a majority of the voting shares of the applicant, and (2) corporations and entities of which the applicant directly or indirectly owns or controls a majority of the voting shares. The Board of Directors may, however, on the recommendation of the administrative law judge or otherwise, determine that such aggregation with regard to one or more of the applicant's affiliates would be unjust and contrary to the purposes of this subpart in light of the actual relationship between the affiliated entities. In such a case the net worth and employees of the relevant affiliate or affiliates will not be aggregated with those of the applicant. In addition, the Board may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(h) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 308.98 Prevailing party.

(a) An eligible applicant may be a "prevailing party" if a settlement of the proceeding was effected on terms favorable to it or if the proceeding against it has been dismissed. In appropriate situations an applicant may also have prevailed if the outcome of the proceeding has substantially vindicated the applicant's position on the significant substantive matters at issue, even though the applicant has not totally avoided adverse final action.

(b) When a proceeding has presented a number of discrete substantive issues, an applicant may have prevailed even though all the issues were not resolved in its favor. If such an applicant is deemed to have prevailed, any award shall be based on the fees and expenses incurred in connection with the discrete significant substantive issue or issues on which the applicant's position has been upheld. If such segregation of costs is not practicable, the award may be based on a fair proration of those fees and expenses incurred in the entire proceeding which would be recoverable under § 308.99 if proration were not performed.

(c) Whether separate or prorated treatment under the preceding paragraph is appropriate, and the appropriate proration percentage, shall be determined on the facts of the particular case. Attention shall be given to the significance and nature of the respective issues and their separability and interrelationship.

§ 308.99 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses unless the position of the FDIC during the proceeding was substantially justified. To avoid an award, counsel for the FDIC must carry the burden of proof that its position was reasonable in fact and law.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceedings or if special circumstances make the award sought unjust.

(c) Awards for fees and expenses incurred before the date on which a proceeding was initiated are allowable if their incurrence was necessary to prepare for the proceeding.

§ 308.100 Measure of awards.

(a) Except as limited by the next subsection, awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents, and expert witnesses, even if the services were made available without charge or at a reduced rate.

(b) No award under this subpart for the fee of an attorney or agent may exceed $75 per hour. No award to compensate an expert witness may exceed the highest rate at which the FDIC pays expert witnesses. An award may also, however, include the reasonable expenses of the attorney, agent, or expert witness as a separate item, if the attorney, agent, or expert witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the administrative law judge shall consider the following:

(1) If the attorney, agent, or expert witness is in private practice, his or her customary fee for like services, or, if he or she is an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or expert witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, test, project, or similar matter prepared on behalf of an applicant may be awarded to the extent that the charge for the service does not exceed the prevailing rate payable for similar services, and the study or other matter was necessary for preparation of the applicant's case and not otherwise required by law or sound business or financial practice.

§ 308.101 Contents of application.

(a) An application for an award of fees and expenses under the Act shall contain (1) the name of the applicant and an identification of the proceeding, (2) showing that the applicant has prevailed, and an identification of each issue with regard to which the applicant believes that the position of the FDIC in the proceeding was not substantially justified, (3) a statement of the amount of fees and expenses for which an award is sought, (4) if the applicant is not an individual, a statement of the number of its employees on the date the proceeding was initiated, (5) a description of any affiliated individuals or entities, as defined in § 308.97(g), or a statement that none exist, (6) a declaration that the applicant, together with any affiliates, had a net worth not more than the ceiling established for it by § 308.97(b) as of the date the proceeding was initiated, and (7) any other matters that the applicant wishes the FDIC to consider in determining whether and in what amount an award should be made.

(b) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application and supporting documents is true and correct.

§ 308.102 Statement of net worth.

(a) A statement of net worth must be filed with the application. It need not be served on parties to the underlying proceeding other than counsel for the FDIC. Unless otherwise ordered by the Board or required by law, the statement shall be for the confidential use of the Board and the administrative law judge.

(b) The statement of net worth shall reflect the net worth of the applicant and all affiliates of the applicant as affiliates are defined in § 308.97(g). To determine eligibility for an award, net worth of affiliates will be aggregated with that of the applicant according to § 308.97(g).

(c) The statement of net worth may be in any form convenient to the applicant which fully discloses all the assets and liabilities of the applicant and all the assets and liabilities of its affiliates, as of the time of the initiation of the underlying proceeding. Unaudited financial statements are acceptable unless the administrative law judge or the Board shall otherwise require. Financial statements or reports to an agency of the Federal Government or to a State, prepared before the initiation of the underlying proceeding for other purposes, and accurate as of a date not more than three months prior to the initiation of the underlying proceeding, are acceptable in establishing net worth as of the time of the initiation of the underlying proceeding, unless the administrative law judge or the Board shall otherwise require. If the applicant or any of its affiliates is a bank, the portion of the statement of net worth which relates to the bank shall consist of a copy of the bank's last Consolidated Report of Condition filed before the initiation of the underlying proceeding. In all cases the administrative law judge or the Board may call for additional information needed to establish the applicant's net worth as of the initiation of the underlying proceeding.

(d) In the case of banks, except as adjusted by additional information that was called for under the preceding sentence, net worth shall be considered for the purposes of this subpart to be the total equity capital as reported, in conformity with applicable instructions and guidelines, on the bank's last Consolidated Report of Condition filed before the initation of the underlying proceeding. In the case of applicants or affiliates that are not banks, net worth shall be considered for the purposes of this subpart to be the excess of total assets over total liabilities, as of the date the underlying proceeding was initiated. Assets and liabilities of individuals shall include those beneficially owned within the meaning of § 335.102(e) of the FDIC's Rules and Regulations.

(e) All statements of net worth shall describe any transfers of assets from or obligations incurred by the applicant or any affiliate, occurring in the six-month period prior to the date on which the proceeding was initiated, which reduced the net worth of the applicant and its affiliates below the applicable net-worth ceiling. If there were not, the applicant shall so state.

§ 308.103 Statement of fees and expenses.

The application shall be accompanied by a statement fully documenting the fees and expenses for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in work in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services performed. The administrative law judge or the Board of Directors may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 308.104 Filing and service of documents.

(a) Any application for an award and any other pleading or document related to an application shall be filed with the Executive Secretary. It shall conform to the requirements of § 308.19 (on filing papers) and shall be served on all parties to the underlying proceeding in accordance with § 308.21(b) (on service), except as provided in § 308.102(a) for statements of net worth.

(b) An application may be filed with the Executive Secretary whenever the applicant has prevailed in the proceding but in no case later than 30 days after service of the final order of the Board of Directors in disposition of the proceeding.

§ 308.105 Answer to application.

(a) Within 20 days after service of an application, counsel for the FDIC may file an answer to the application. Unless counsel for the FDIC requests and is granted an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 20-day period will be treated as a consent to the award requested.

(b) If counsel for the FDIC and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 20 days, and further extensions may be granted

by the administrative law judge upon the joint request of counsel for the FDIC and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 308.107.

(d) Reply to answer. The applicant may file a reply if counsel for the FDIC has addressed in his or her answer any of the following issues: That the position of the FDIC was substantially justified, that the applicant unduly protracted the proceedings, or that special circumstances make an award unjust. The reply shall be filed within 15 days after service of the answer. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 308.107.

§ 308.106 Comments by other parties.

Any party to the proceeding, other than the applicant and counsel for the FDIC, may file comments on an application within 20 days after service of the application. If the applicant is entitled to file a reply to an answer under § 308.105(d), another party may file comments on the answer within 15 days after service of the objection. A commenting party may not participate further in proceedings on the application unless the administrative law judge determines that the public interest requires such participation in order to permit additional exploration of matters raised in the comments.

§ 308.107 Further proceedings.

(a) *General.* Ordinarily, the determination of a recommended award will be made by the administrative law judge on the basis of the written record. However, on request of either the applicant or counsel for the FDIC, or on his or her initiative, the administrative law judge may order further proceedings such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings will be held only when necessary for full and fair resolution of the issues arising from the application and will be conducted as promptly and expeditiously as possible.

(b) *Request for further proceedings.* A request for further proceedings under this section shall specifically identify the information sought or the issues in dispute and shall explain why additional proceedings are necessary.

(c) *Hearing.* The administrative law judge shall hold an oral evidentiary hearing only on disputed issues of material fact which cannot be adequately resolved through written submissions.

§ 308.108 Recommended decision.

The administrative law judge shall file a recommended decision on the fee application with the Executive Secretary no later than 90 days after the filing of the application or 30 days after the conclusion of the hearing, whichever is later. The recommended decision shall include written proposed findings and conclusions on the applicant's eligibility and its status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount of the recommended award. The recommended decision shall also include, if at issue, proposed findings on whether the FDIC's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. The administrative law judge shall also file with the Executive Secretary the record of the proceeding on the fee application and a proposed order and at the same time serve upon each party a copy of the recommended decision, findings, conclusions, and proposed order.

§ 308.109 Decision of the Board of Directors.

(a) Within 15 days after service of the recommended decision, findings, conclusions, and proposed order, the applicant or counsel for the FDIC may file with the Executive Secretary written exceptions thereto. A supporting brief may also be filed.

(b) The Board of Directors shall render its decision within 60 days after the matter is submitted to it. The Executive Secretary shall furnish copies of the decisions and order of the Board to the parties. Judicial review of the decision and order may be obtained as provided in 5 U.S.C. 504(c)(2).

§ 308.110 Payment of awards.

An applicant seeking payment of an award shall submit to the Executive Secretary a statement that it will not seek review of the decision or order in the United States courts. The FDIC will pay the amount awarded within 30 days after receiving the applicant's statement, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

3. By revising § 308.01 to § 308.95 of Part 308 to read as follows:

Subpart A—Definitions and Rules of Construction

Sec.
308.01 Definitions.
308.02 Rules of construction.

Subpart B—Rules of Practice Applicable to All Hearings

308.03 Scope.

Sec.
308.04 Appearance and practice before the FDIC.
308.05 Notice of hearing.
308.06 Answer.
308.07 Conduct of hearings.
308.08 Subpenas.
308.09 Procedure on depositions.
308.10 Payment of witness fees.
308.11 Rules of evidence.
308.12 Motions.
308.13 Proposed findings and conclusions, supporting and reply briefs, and recommended decision.
308.14 Exceptions to proposed findings and conclusions and recommended decision.
308.15 Briefs in support of exceptions.
308.16 Notice of submission to the Board of Directors.
308.17 Oral argument before the Board of Directors.
308.18 Decision of the Board of Directors.
308.19 Filing papers with the Executive Secretary.
308.20 Documents in proceedings confidential.
308.21 Service of papers other than subpenas.
308.22 Computing time.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

308.23 Scope.
308.24 Notice of finding grounds for termination of insurance.
308.25 Extraterritorial acts of foreign banks or their directors or trustees.
308.26 Failure of a foreign bank to secure removal of personnel.
308.27 Notice of intention to terminate insured status and hearing.
308.28 Order terminating insured status.
308.29 Consent to termination of insured status.
308.30 Notice to depositors of termination of insured status.
308.31 Termination of insured status of bank not engaged in the business of receiving deposits, other than trust funds.

Subpart D—Rules and Procedures Applicable to Proceedings Relating To Cease-and-Desist Orders

308.32 Scope.
308.33 Grounds for cease-and-desist orders.
308.34 Notice to State supervisory authority.
308.35 Notice of charges and of hearing, and consent.

Sec.
308.36 Issuance and effective date of cease-and-desist order.
308.37 Issuance and effective date of temporary cease-and-desist order.
308.38 Extraterritorial acts of foreign banks or their officials.

Subpart E—Rules and Procedures Applicable to Proceedings Relating To Removal and Suspension Orders

308.39 Scope.
308.40 Grounds for removal or prohibition.
308.41 Notice to State supervisory authority.
308.42 Notice of intention to remove, hearing and consent.
308.43 Issuance and effective date of removal or prohibition order.
308.44 Grounds for suspension or prohibition.
308.45 Issuance and effective date of suspension or prohibition order.
308.46 Extraterritorial acts of officials of foreign banks.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

308.47 Scope.
308.48 Order to conduct proceedings.
308.49 Powers of presiding officer.
308.50 Proceedings confidential.
308.51 Rights of witnesses.
308.52 Service of subpena.
308.53 Transcripts.
308.54 Special examinations and examinations of closed banks.

Subpart G—Procedures and Standards Applicable To Suspension, Removal, and Prohibition Where Felony Charged, and Petition for Reconsideration of Denial of an Application Under Section 19 of the Federal Deposit Insurance Act

308.55 Scope.
308.56 Relevant considerations.
308.57 Notice of suspension or prohibition.
308.58 Order of removal or prohibition.
308.59 Notice of opportunity and request for hearing.
308.60 Waiver of hearing.
308.61 Hearing.
308.62 Decision of the Board of Directors.
308.63 Reconsideration by the Board of Directors.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

308.64 Scope.
308.65 Violation of order as ground for assessment.
308.66 Violation of laws limiting dealings with bank officials and affiliates as ground for assessment.
308.67 Violation of laws governing correspondent accounts as ground for assessment.
308.68 Relevant considerations.
308.69 Notice of assessment of civil penalty, and opportunity and request for hearing.
308.70 Waiver of hearing.
308.71 Hearing and order.
308.72 Payment of civil penalty.

Subpart I—Rules and Procedures Applicable to Proceedings Relating To Disapproval of Acquisition of Control

Sec.
308.73 Scope.
308.74 Grounds for disapproval.
308.75 Notice of disapproval, and opportunity and request for hearing.
308.76 Exceptions.
308.77 Hearing and order.

Subpart J—Rules and Procedures Applicable to Proceedings Relating To Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

308.78 Scope.
308.79 Notice of intention to assess civil penalty, and opoortunity and request for hearing.
308.80 Waiver of hearing.
308.81 Hearing.
308.82 Assessment.
308.83 Collection.

Subpart K—Rules and Procedures for Imposition of Sanctions Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Clearing Agencies or Transfer Agents

308.84 Scope.
308.85 Grounds for imposition of sanctions.
308.86 Notice and consultation with the Securities and Exchange Commission.
308.87 Notice of intention to impose sanctions.
308.88 Hearing.
308.89 Issuance and effective date of order imposing sanctions.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Section 12(h) of the Securities Exchange Act of 1934

308.90 Scope.
308.91 Application for exemption.
308.92 Newspaper notice.
308.93 Notice of hearing.
308.94 Hearing.
308.95 Decision of the Board of Directors.

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94–29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95–630, 92 Stat. 3641 (12 U.S.C. 1972); sec. 203, Pub. L. No. 96–481, 94 Stat. 2325 (5 U.S.C. 504).

Subpart A—Definitions and Rules of Construction

§ 308.01 Definitions.

For purposes of this part, except where explicitly stated to the contrary,

(a) The term "bank" means, in general, any bank to which reference is being made. For purposes of subpart F, the term means an insured bank or its affiliate, an institution applying to become an insured bank, or a branch of a foreign bank (except where used in § 308.54);

(b) The term "Board of Directors" or "Board" means the Board of Directors of the Federal Deposit Insurance Corporation;

(c) The term "FDIC" means the Federal Deposit Insurance Corporation;

(d) The term "depositors" as used in subpart D and § 308.37(a), notwithstanding any limitation in § 308.01, includes participants in a clearing agency and persons doing business with a transfer agent, for both of which the FDIC is the appropriate regulatory agency;

(e) The term "Executive Secretary" means the Executive Secretary of the Federal Deposit Insurance Corporation;

(f) For the purposes of § 308.07(c), the term "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. This does not include requests for status reports.

(g) The term "foreign bank" means any company which engages in the business of banking and which is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands. "Foreign bank" includes, without limitations, foreign commercial banks, foreign merchant banks and other institutions which engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(h) The term "insured bank" means any bank or banking institution (including a foreign bank having an insured branch) the deposits of which are insured in accordance with the Federal Deposit Insurance Act;

(i) The term "insured branch" means a branch of a foreign bank any deposits of which are insured in accordance with the Federal Deposit Insurance Act;

(j) The term "insured nonmember bank" means any bank or banking institution the deposits of which are insured in accordance with the Federal Deposit Insurance Act and which is not a national bank, a District bank, or a member of the Federal Reserve System. The term also includes a foreign bank having an insured branch, and any municipal securities dealer, clearing agency or transfer agent for which the FDIC is the appropriate regulatory agency (notwithstanding any limitation in § 308.01);

(k) For the purposes of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term "officer" as used in subpart E means an employee or officer who has management functions and the term "director" includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.

For other purposes, the terms "officer" and "director" as used in this part are defined according to common usage in the banking industry;

(l) The term "official" means any director, trustee, officer, employee or agent of a bank to which reference is being made, or any other person participating in the conduct of the affairs of a bank;

(m) The term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party, unless the context otherwise suggests. A person or agency may be admitted for a limited purpose;

(n) For purposes of subparts I and J, the term "person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other entity;

(o) The term "presiding officer" means any person designated by the Board of Directors to conduct a hearing, or proceedings pursuant to section 10(c) of the Federal Deposit Insurance Act;

(p) The term "proceedings pursuant to section 10(c)" means the exercise of any power specified in section 10(c) or 8(n) of the Federal Deposit Insurance Act, or any proceeding conducted pursuant to the exercise of such powers.

§ 308.02 Rules of construction.

Throughout this part, any use of a term in the singular shall include the plural, and the plural shall include the singular, if such use would be appropriate.

Subpart B—Rules of Practice Applicable to All Hearings

§ 308.03 Scope.

This subpart prescribes rules of practice and procedures followed by the FDIC in hearings pursuant to the provisions of the Federal Deposit Insurance Act pertaining to:

(a) Involuntary termination of the insured status of any bank including an insured branch of a foreign bank;

(b) Issuance of cease-and-desist orders against any insured nonmember bank or its official;

(c) Assessment of civil penalties against (1) an insured nonmember bank or its official, for violation of a cease-and-desist order which has become final, or (2) an insured nonmember bank or its official, for violation of (i) the provisions of section 22(h) or 23A of the Federal Reserve Act, made applicable by section 18(j) of the Federal Deposit Insurance Act, or (ii) the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended;

(d) Issuance of orders that remove or suspend from office or prohibit from further participation in the conduct of the affairs of an insured nonmember bank, a director or officer, or that prohibit any other person from further participation in the conduct of the affairs of such a bank, except where the removal or suspension or prohibition is within the scope of subpart G as set forth in § 308.55;

(e) Disapproval of a proposed acquisition of control of an insured nonmember bank; and

(f) Imposition of sanctions upon (1) any municipal securities dealer for which the FDIC is the appropriate regulatory agency, (2) any person associated or seeking to become associated with such a municipal securities dealer, or (3) any clearing agency or transfer agent for which the FDIC is the appropriate regulatory agency (except for hearings on postponement of registration by such clearing agency or transfer agent pending registration denial proceedings, and for hearings on suspension of registration by such clearing agency or transfer agent pending registration revocation proceedings).

§ 308.04 Appearance and practice before the FDIC.

(a) *Qualification, authorization and notice of appearance.* Any member in good standing of the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia, may represent others before the FDIC upon filing with the Executive Secretary a written declaration of current qualification to practice and an authorization to represent the particular party. Any other person desiring to appear before, or transact business with, the FDIC in a representative capacity may be required to file with the Executive Secretary a power of attorney showing authority to act in such capacity, and may be required to demonstrate to the satisfaction of the Executive Secretary possession of the requisite qualifications. Attorneys and representatives of parties shall file a written notice of appearance with the Executive Secretary or the administrative law judge.

(b) *Summary suspension.* Contemptuous conduct at an argument before the Board of Directors or at a hearing before an administrative law judge shall be grounds for exclusion and suspension for the duration of the argument or hearing.

§ 308.05 Notice of hearing.

Whenever a hearing within the scope of this subpart is ordered by the Board of Directors, a notice of hearing shall be given by the Executive Secretary (or designee of the Board) to the party afforded the hearing and to any appropriate supervisory authority. The notice shall indicate the time, place, and nature of the hearing, the legal authority and jurisdiction for the hearing, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing. The notice shall be delivered by personal service, by registered or certified mail to the party's last known address, or by other appropriate means, sufficiently in advance of the hearing date to comply with the provisions of the Federal Deposit Insurance Act.

§ 308.06 Answer.

(a) *Filing.* Every party to a proceeding shall file an answer with the Executive Secretary within 20 days after service of the notice of hearing upon the party afforded the hearing, unless the Board specifies a different filing period of not less than 10 days after service of the notice. For good cause shown, the Board, the Executive Secretary or the administrative law judge may permit filing of an answer after expiration of the filing period.

(b) *Requirements: effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party lacks sufficient information to admit or deny each allegation. A statement of lack of information shall have the effect of a denial. When a party intends to deny part of an allegation, that part shall be denied and the remainder specifically admitted. Any allegation not denied shall be deemed admitted.

(c) *Admitted allegations.* If a party elects not to contest any of the allegations of fact in the notice, the party's answer shall consist of a statement that all of the allegations are admitted to be true. Such an answer shall constitute a waiver of hearing on the facts and allegations contained in the notice. This answer and the notice shall provide a record basis upon which the administrative law judge shall make a recommended decision (containing findings of fact, conclusions of law and proposed order) that shall be filed with the Executive Secretary. The recommended decisions shall be served on the party, who may file exceptions thereto within the time period provided in § 308.14(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by

this section within the time provided shall be deemed a waiver of the right to appear and contest the allegations of the notice of hearing and shall authorize the administrative law judge, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Executive Secretary a recommended decision containing such findings and appropriate conclusions.

§ 308.07 Conduct of hearings.

(a) *Selection of administrative law judge.* Unless otherwise directed by the Board, a hearing within the scope of this subpart shall be held before an administrative law judge selected by the Office of Personnel Management. The provisions of this section shall not apply to a hearing before the Board.

(b) *Authority of administrative law judge.* Hearings governed by this subpart shall be conducted in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 554–557), and the provisions of this subpart. The administrative law judge shall conduct the hearing in a fair and impartial manner and shall avoid delay in the disposition of proceedings. The administrative law judge shall have all powers necessary to that end, including the power:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To take depositions or cause depositions to be taken;

(4) To hold conferences for the settlement or simplification of issues or for any other proper purpose;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To receive relevant evidence and rule upon the admission of evidence and offers of proof;

(7) To grant extensions of time for filing or performing any act required or permitted within a specified time during the course of a proceeding for good cause shown;

(8) To continue or adjourn a hearing from time to time and place to place, as permitted by law or as agreed by the parties;

(9) To consider and rule upon all procedural and other motions appropriate in an adversary proceeding, except that an administrative law judge shall not have power to decide any motion to dismiss the proceedings or other motion resulting in final determination of the merits of the proceeding;

(10) To call for the production of further evidence, to permit oral argument and submission of briefs, and to reopen a hearing in accordance with § 308.07(j); and

(11) The administrative law judge shall have all the authority provided in section 556(c) of the Administrative Procedure Act (5 U.S.C. 556(c)), subject to and without limitation upon, the foregoing provisions of § 308.07(b).

(c) *Ex parte communications prohibited.* (1) The following prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing: However, when the person responsible for the communication has knowledge that the proceeding will be noticed, the prohibitions apply from the time such knowledge is acquired.

(i) No interested person outside the FDIC shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to anyone who is or may reasonably be expected to be involved in the decisional process.

(ii) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any interested person outside the FDIC.

(2) Except as authorized by law, the administrative law judge shall not consult anyone within the FDIC on any fact in issue, unless upon notice and opportunity for all parties to participate. The administrative law judge shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent of the FDIC engaged in the performance of investigative or prosecuting functions. An officer, employee or agent engaged in the performance of such functions in any case shall not, in that case or a factually related case, participate or advise in the decision of the administrative law judge, except as a witness or counsel in the proceedings, or as otherwise authorized by law.

(3) If an ex parte communication is made or knowingly caused to be made, all such written communications, any written responses, and memoranda stating the substance of any oral responses, shall be placed on the public record.

(4) Upon receipt of a communication knowingly made or caused to be made in violation of § 308.07(c)(1)(i), the responsible party may be required to show cause why such party's claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice and the policy of the Federal Deposit Insurance Act, knowing violation of § 308.07(c)(1)(i) may be ground for a decision adverse to a party in violation of that section.

(d) *Prehearing conferences.* (1) Upon the initiative of the administrative law judge, or at the request of any party, counsel for all parties may be directed to meet at a specified time and place prior to the hearing, or to make written submissions, for the purpose of considering the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact, admissions of contents and authenticity of documents;

(iii) Matters of which official notice will be taken; and

(iv) Other matters which may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits to be introduced in evidence.

(2) At the request of any party, the conference shall be recorded. The administrative law judge shall enter in the record an order reciting the results of the conference, any rulings upon matters considered at the conference, and any directions to the parties. The subsequent course of the proceeding shall be controlled by this order, which may be modified to prevent manifest injustice.

(e) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings. To the extent authorized by law, the Board of Directors in its discretion may permit other persons to attend on written request by a party or on the Board's own motion, or the Board may order a public hearing.

(f) *Order of procedure.* The counsel for the FDIC shall open and close.

(g) *Transcript of testimony.* Hearings shall be recorded and copies of the transcript made available to any party upon payment of the cost therefor. When the hearing is public, copies of the transcript shall be similarly available to other interested persons.

(h) *Filing and transmittal of the record.* A copy of the transcript duly certified by the reporter, and all exhibits, papers and requests filed in the proceeding, shall be filed by the reporter with the administrative law judge. The administrative law judge shall promptly serve notice upon all parties of such filing and transmittal.

(i) *Changes of time; change of hearing location; continuance.* Except as otherwise expressly provided by law, the Board of Directors may provide time limits different from those specified in this subpart or in a notice of hearing, upon its own initiative or for good cause shown, and the Board may change the time and place for a hearing to commence. The administrative law judge may continue or adjourn a hearing in accordance with § 308.07(b)(8).

(j) *Reopening of hearing.* The administrative law judge, upon appropriate notice, may reopen a hearing at any time prior to certification of the administrative law judge's recommended decision to the Executive Secretary. The Board of Directors may reopen a case in accordance with § 308.18.

(k) *Opportunity for informal settlement.* At any time, and without prejudice to the rights of the parties, any interested party may submit to the Executive Secretary for consideration by the Board of Directors, written offers or proposals for settlement of a proceeding. An offer, proposal, or counter-offer shall not be admissible in evidence over the objection of any party. Steps taken toward informal settlement shall not preclude settlement of any proceeding through the regular adjudicatory process by filing an answer or exceptions as provided in § 308.06 and § 308.76, or by submission of the case to the administrative law judge on a stipulation of facts and an agreed order.

§ 308.08 Subpenas.

(a) *Issuance.* The administrative law judge, or the Executive Secretary in the event the administrative law judge is unavailable, may issue subpenas or subpenas duces tecum at the request of any party, requiring the attendance or deposition of witnesses or the production of documentary evidence in connection with a hearing pursuant to subparts B, C, D, E, H, I or K of this part, from any State, Commonwealth or territory at any designated place of hearing. Notice of issuance of the subpena or subpena duces tecum shall be served upon each of the parties within a reasonable time not less than ten days before the date fixed for taking the deposition or production of documents.

(1) The party seeking the subpena shall include a statement showing the general relevance and reasonable scope of the testimony or other evidence sought. If, after consideration of all circumstances, the administrative law judge or the Executive Secretary determines the subpena in whole or in part is unreasonable, oppressive, excessive in scope or unduly burdensome, the administrative law judge or the Executive Secretary may refuse to issue the subpena or may issue it upon such conditions as fairness requires.

(2) The administrative law judge or the Executive Secretary by subpena may order that a deposition be taken, upon a showing that (i) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness or infirmity, or will otherwise be unavailable, and (ii) the testimony will be material, and (iii) taking the deposition will not result in any undue burden to any other party or in undue delay of the proceeding. The subpena shall name the witness whose deposition is to be taken and specify the time and place for taking the deposition and the person before whom the deposition is to be taken. The time, place and person before whom the deposition is to be taken may differ from those stated in the application.

(b) *Application.* A party requesting the deposition of a witness or the production of documents, shall apply in writing to the administrative law judge, or to the Executive Secretary in the event the administrative law judge is unavailable, stating the reasons for the application, the name and address of the witness or the person who is to produce the documents, the matters concerning which the witness is expected to testify or the contents of the documents, the relevance of the testimony or documents, the time and place for taking the deposition or production of documents, and the name and address of the person before whom the deposition is to be taken or the documents are to be produced. The party making the application shall serve a copy of the subpena and application on every other party to the proceeding. Any party opposing the issuance of the subpena may file a response or opposition to the application within 10 days. Failure to do so within the time allowed will be deemed a waiver of objection to the subpena.

(c) *Service of subpena.* Service of a subpena shall be made by delivering a copy of the subpena to the person named therein and by tendering the fees for one day's attendance and mileage as specified in § 308.10. A subpena issued on behalf of the FDIC shall be similarly served, however, the fees for attendance and mileage need not be tendered at the time of service. If service is made by the U.S. Marshal, a deputy U.S. Marshal or an employee of the FDIC, a return of service shall be made. If service is made by any other person, that person shall make a return of service by affidavit on or with the original subpena that states how service was made. The reasons for failure of service shall be stated. The original subpena with the required return shall be promptly delivered to the administrative law judge.

(1) *Natural persons.* Delivery of a copy of a subpena and tender of fees to a natural person may be made by handing them to the person; or by leaving them at the person's office with someone in charge; or by leaving them in a conspicuous place in the office if there is no one in charge; or by leaving them at the person's dwelling place or usual place of abode with someone of suitable age and discretion residing there; or by mailing them by registered or certified mail to the last known address of the person; or by any method that gives actual notice to the person and makes the fees available prior to the return date.

(2) *Other entities.* When the person to be served is not a natural person, delivery of a copy of the subpena and tender of the fees may be effected by handing them to a registered agent for service or to an officer or director or agent in charge of any office of the person; or by mailing them by registered or certified mail to the representative at the person's last known address; or by any method that gives actual notice to the person's authorized representative and makes the fees available prior to the return date. Any service on a foreign bank may be made on any branch or agency located within any State or the District of Columbia, but if the service is in connection with an action or proceeding involving one or more such branches or agencies, service shall be made on at least one branch or agency so involved.

(d) *Motion to quash.* A person named in a subpena or subpena duces tecum who is not a party to the proceeding and who has not had the opportunity to oppose the issuance of the supena pursuant to § 308.08(b) may apply to the administrative law judge, or to the Executive Secretary if the administrative law judge is unavailable, to revoke, quash, or modify the subpena. A statement of the reasons for the application must accompany it and notice of the application must be given to the party requesting the subpena. The application must be made prior to the time for compliance specified in the subpena and not more than 10 days after the date of service of the subpena.

§ 308.09 Procedure on depositions.

(a) *When taken.* The administrative law judge, or the Executive Secretary in

the event the administrative law judge is unavailable, may order by subpena evidence to be taken by deposition at any stage of a proceeding. A deposition may be taken by the administrative law judge, or before any person having power to administer oaths and who is designated by the Executive Secretary or the administrative law judge. A deposition shall be taken no sooner than 10 days after the parties to the proceeding have received notice of the deposition, where such notice has not been waived.

(b) *Procedure.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds for the objection. The person taking the deposition shall not have power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground for the objection is one which might have been avoided or removed if presented at that time. All questions, answers, and objections (not including argument or debate) shall be recorded by the person taking the deposition, or under such person's direction. The deposition shall be subscribed by the witness, unless the parties by stipulation have waived the signing, or the witness is ill or cannot be found or has refused to sign. If the deposition is not subscribed by the witness, the person taking the deposition shall state this on the record and the reason therefor. The transcript shall be certified as a true and complete transcript of the deposition by the person taking it. Such person shall promptly send by registered or certified mail, the original of the deposition, and the originals of all exhibits, to the administrative law judge, unless otherwise directed in the order authorizing the deposition. Interested parties may make their own arrangements with the person taking the deposition for copies of the transcript and exhibits.

(c) *Introduction as evidence.* The deposition or any part of it may be read in evidence by any party to a proceeding, subject to appropriate rulings on objections to questions or evidence noted during the taking of the deposition and objections that would be valid were the witness testifying in person. This does not include objections waived in accordance with the fourth sentence of paragraph (b) of this section. Only those portions of a deposition received in evidence at the hearing shall constitute a part of the record upon which a decision shall be based.

§ 308.10 Payment of witness fees.

Witnesses who testify or whose depositions are taken shall be paid the same fees for attendance and mileage paid in the United States district courts. Fees of the witness, the reporter and the person taking a deposition shall be paid by the party requesting attendance at a proceeding or deposition.

§ 308.11 Rules of evidence.

(a) *Evidence.* All parties shall have the right to present their case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds therefor. The record need not include argument on objections except as ordered, allowed, or requested by the administrative law judge. Rulings on such objections and on any other matters shall be a part of the record. Failure to object to the admission or exclusion of evidence or to any ruling shall be considered a waiver of the objection.

(c) *Official notice.* All matters officially noticed by the administrative law judge shall appear on the record.

§ 308.12 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this subpart shall be made by motion. Applications or requests shall be addressed to and filed with the administrative law judge prior to filing of the recommended decision with the Executive Secretary pursuant to § 308.13. At all other times, motions shall be addressed to and filed with the Executive Secretary. Motions may be made orally upon the record at a session of a hearing, unless the administrative law judge requires a written motion. All other motions shall be in writing. All written motions shall state with particularity the order or relief sought and the grounds therefor. All written motions and oppositions shall be accompanied by a form of proposed order.

(b) *Oppositions.* Within 10 days after service of any written motion, or within such other period of time fixed by the administrative law judge or the Executive Secretary, any party may file a written answer or opposition to the motion. The moving party shall not have a right to reply, except as permitted by the administrative law judge or the Executive Secretary. As a matter of discretion, the administrative law judge or the Executive Secretary may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* Oral argument shall not be heard on motions, except as directed by the administrative law judge or the Board of Directors. Supporting memoranda or briefs may be filed with motions or answers or oppositions thereto.

(d) *Rulings on motions.* The administrative law judge or the Executive Secretary shall rule upon all motions properly submitted in accordance with the provisions of this part, and upon such other motions as directed by the Board of Directors. If the administrative law judge or the Executive Secretary finds that a prompt decision by the Board on a motion is essential to the proper conduct of the proceeding, the motion may be referred to the Board for decision.

(e) *Appeal from rulings on motions.* All motions, answers, oppositions and rulings shall become part of the record. Rulings of an administrative law judge or the Executive Secretary on any motion may not be appealed to the Board of Directors prior to its consideration of the administrative law judge's recommended decision, findings and conclusions, except by special permission of the Board. Such rulings shall be considered by the Board in reviewing the record. Requests to the Board for special permission to appeal from such rulings shall be filed promptly in writing, and shall briefly state the grounds for the request. The moving party shall immediately serve a copy of the request on every other party to the proceeding.

(f) *Proceeding with hearing.* The hearing shall proceed pending the determination of any motion by the Board of Directors, unless otherwise ordered by the administrative law judge or the Board.

§ 308.13 Proposed findings and conclusions, supporting and reply briefs, and recommended decision.

(a) *Proposed findings and conclusions by parties.* After service of the notice by the administrative law judge that the record has been filed and transmitted as provided in § 308.07(h), each party to a hearing shall have 30 days to file with the administrative law judge proposed findings of fact, conclusions of law and a proposed order. For good cause, the administrative law judge may allow

additional time for filing. The proposals may be accompanied by a supporting brief or memorandum citing statutes, decisions, other authorities, and page references to the record. All proposals, briefs and memoranda shall become part of the record. Reply briefs may be filed within 15 days of service of initial briefs and shall be confined to matters in original briefs of opposing parties.

(b) *Recommended decision and filing of record.* Within 45 days after expiration of the time allowed for filing of proposed findings, conclusions and order by the parties, the administrative law judge shall file with the Executive Secretary and shall certify to the Board of Directors for decision, the record of the hearing. For good cause, the Board may extend the period for filing and certification. The record shall include a recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits, exceptions, rulings, and briefs and memoranda filed in connection with the hearing. Upon request of any party, the record shall include exhibits excluded from evidence or tenders of proof. At the time of filing of the record with the Executive Secretary the administrative law judge shall serve upon each party a copy of the recommended decision, findings, conclusions, and proposed order. The provisions of this paragraph shall not apply to a hearing before the Board of Directors.

§ 308.14 Exceptions to proposed findings and conclusions and recommended decision.

(a) *Filing.* Within 20 days after service of the recommended decision, findings, conclusions, and proposed order of the administrative law judge, a party may file with the Executive Secretary written exceptions thereto, exceptions to the failure of the administrative law judge to make any recommendation or finding or conclusion, exceptions to the admission or exclusion of evidence, and exceptions to any other rulings, subject to the provisions of this section. A supporting brief may also be filed. For good cause, the Executive Secretary may allow additional time for filing. A party who has not filed an answer in accordance with paragraphs (a) and (d) of § 308.06, or exceptions in accordance with § 308.76 may not file exceptions pursuant to this section.

(b) *Waiver.* Failure of a party to file exceptions to those matters specified in paragraph (a) of this section within the time prescribed shall be a waiver of objection thereto.

(c) *Hearing before the Board of Directors.* The provisions of § 308.14 shall not apply to a hearing before the Board of Directors.

§ 308.15 Briefs in support of exceptions.

(a) *Contents.* All briefs in support of exceptions shall be confined to the particular matters in issue, citing statutes, decisions, other authorities, and page references to the record or recommended decision of the administrative law judge. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Late filing.* Briefs not filed on or before the time fixed in this subpart and documents not provided for in this subpart shall be received only with the special permission of the Board of Directors.

§ 308.16 Notice of submission to the Board of Directors.

The Executive Secretary shall submit the case to the Board after expiration of the time for filing exceptions and notify the parties that the case has been submitted to the Board of Directors for final decision.

§ 308.17 Oral argument before the Board of Directors.

(a) *Scheduling of Argument.* Upon the written request of a party or upon its own initiative, the Board of Directors may order an oral argument on the findings, conclusions and recommended decisions of the administrative law judge, when it considers justice will best be served thereby. The request must be made within the time prescribed for filing exceptions, and briefs in support of exceptions. The oral argument shall be before the Board or one or more members of the Board, and shall be recorded, unless otherwise ordered by the Board. Counsel will be notified of the exact time, date and place of the argument.

(b) *Order of Procedure.* Presentation of oral argument will be limited to a total of 45 minutes. Counsel for the respondent will open with a presentation limited to 20 minutes. Counsel for FDIC will follow with a presentation and response also limited to 20 minutes. Counsel for the respondent will then be given five minutes for a rebuttal. The Board may make adjustments to this schedule as it deems appropriate.

§ 308.18 Decision of the Board of Directors.

(a) *Decision and reopening of case.* The Board of Directors shall render its decision within 90 days after the Executive Secretary has notified the parties pursuant to § 308.17 that the case has been submitted to the Board for final decision. Within the 90-day period, the Board may order that the notice be set aside and the case reopened.

(b) *FDIC staff participation.* Appropriate members of the staff, who are not participating in the performance of investigative or prosecutorial functions in the particular case, or in a factually related case, may advise and assist the Board of Directors in the consideration of the particular case and in the preparation of documents for its disposition.

(c) *Copies.* The Executive Secretary shall furnish copies of the decision and order of the Board to the parties and to the bank concerned. Copies shall also be furnished to the appropriate State supervisory authority in the case of an insured nonmember bank, including a State branch of a foreign bank. Where the proceedings involve involuntary termination of the insured status of a State member bank, copies shall also be furnished to the Board of Governors of the Federal Reserve System. Where the proceedings involve involuntary termination of the insured status of a national bank, a District bank or a Federal branch of a foreign bank, copies shall also be furnished to the Comptroller of the Currency.

§ 308.19 Filing papers with the Executive Secretary.

(a) *Filing.* Papers required or permitted to be filed with the Board of Directors or the Executive Secretary, shall be filed with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. The papers may be sent to the Executive Secretary by mail or express, but must be postmarked or received by the FDIC in Washington, D.C., within the prescribed time limit for filing.

(b) *Formal requirements.* All papers filed under this subpart shall be printed or typewritten, and copies shall be clear and legible. The original of all papers filed by a party not a natural person shall be signed by the party's duly authorized representative. Papers filed by a party who is a natural person shall be signed by the party or a duly authorized representative. The signer's address and telephone number must appear on the original. Counsel for the FDIC shall sign the original of all papers filed on behalf of the FDIC. All papers filed must name in the heading or on a title page, the party, the FDIC, the docket number and the subject of the papers.

(c) *Copies.* An original and four copies of all documents and papers required or permitted to be filed or served upon the Board of Directors or the Executive Secretary under this subpart (except the transcript of testimony and exhibits), shall be furnished to the Executive Secretary, unless otherwise specifically provided in the notice of hearing.

§ 308.20 Documents in proceedings confidential.

Unless otherwise ordered by the Board or required by law, the notice of hearing, the transcript, the recommended decision of the administrative law judge, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Board of Directors and other papers filed in connection with any hearing shall be for the confidential use of the Board, the administrative law judge or presiding officer, and appropriate supervisory authorities.

§ 308.21 Service of papers other than subpenas.

(a) *By the Board of Directors.* All documents or papers required to be served by the Board of Directors upon any party afforded a hearing shall be served by the Executive Secretary or the Board's designee. Service shall be made by personal service or by registered or certified mail, addressed to the last known address as shown on the records of the Board, of a party's attorney or representative of record. If there is no attorney or representative of record, service shall be made upon a party at the party's last known address as shown on the records of the Board. Service may also be made in such other manner reasonably calculated to give actual notice, as the Board may provide by regulation or otherwise. The foregoing provisions do not apply to service by the Board on counsel for the FDIC.

(b) *By the parties.* Except as otherwise expressly provided, a party filing papers in accordance with this subpart shall serve them upon the attorneys or representatives of record of all other parties to the proceeding, or upon such other parties if there is no attorney or representative. Service may be made by personal service or by registered, certified, or regular first class mail addressed to the last known address of such parties, or their attorneys or representatives of record. When filed with the Board of Directors of the administrative law judge, all papers shall show that service has been made.

§ 308.22 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act or event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday. When the last day is a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday or Federal holiday, and intermediate Saturdays, Sundays and Federal holidays shall be included in the computation; however, when the period of time within which an act is to be performed is seven days or less, intermediate Saturdays, Sundays and Federal holidays shall not be included.

(b) *Service by mail.* Under this part, when a party has the right or is required to perform an act within a prescribed time period after the service by mail of any papers upon the party, three days shall be added to the prescribed time period for performance.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 308.23 Scope.

Under the authority of section 8 of the Federal Deposit Insurance Act, the Board of Directors may terminate the insured status of an insured bank or an insured branch of a foreign bank upon the grounds set forth in section 8 and enumerated in § 308.24, § 308.26, and § 308.31. Hearings required to terminate insured status shall be conducted in accordance with the rules and procedures of subpart B and this subpart.

§ 308.24 Notice of finding grounds for termination of insurance.

The Board of Directors shall notify the Comptroller of the Currency in the case of a national bank or a District bank or an insured Federal branch of a foreign bank, and shall notify the appropriate supervisory authority in the case of an insured nonmember bank, including an insured State branch of a foreign bank, and shall notify the Board of Governors of the Federal Reserve System in the case of a State member bank, when the Board finds (a) that an insured bank (including a foreign bank having an insured branch) or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or (b) that such bank is in an unsafe or unsound condition to continue operations as an insured bank, or (c) that such bank or its directors or trustees have violated an applicable law, rule, regulation, order, or any condition imposed in writing by the FDIC in connection with the granting of any application or other request by the bank, or have violated any written agreement entered into with the FDIC. The appropriate supervisory authorities shall be notified for the purpose of securing correction of the practices or violations of a bank or its directors or trustees, or of the condition of the bank. The Board shall furnish a copy of the notice to the bank.

§ 308.25 Extraterritorial acts of foreign banks or their directors or trustees.

An act or practice committed outside the United States by a foreign bank or its directors or trustees, which act or practice in and of itself would otherwise be a ground for termination of the insured status of a branch of the foreign bank under this subpart, shall be a ground for such termination only if the Board of Directors finds either that: (a) The act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of, an act or practice committed within any State of the United States or the District of Columbia that in and of itself would be an appropriate basis for action by the FDIC, or (b) the act or practice committed outside the United States, if proven, would adversely affect the insurance risk of the FDIC.

§ 308.26 Failure of a foreign bank to secure removal of personnel.

When any person associated with a foreign bank fails to appear promptly as a party to a proceeding pursuant to § 308.40 or § 308.44 for removal or suspension of that person, or fails to comply with an effective order or judgment issued in such proceeding, any failure by the bank to secure that person's removal from office and preclude the person from further participation in the conduct of the affairs of the bank, shall be a ground for termination of insurance of deposits in any branch of the bank.

§ 308.27 Notice of intention to terminate insured status and hearing.

(a) *Notice and period of correction.* Unless correction of the practices, condition or violations specified in the notice issued pursuant to § 308.24 is made within 120 days of service of the notice, or a specified period of correction of not less than 20 days, the Board of Directors, if it determines to proceed further, shall give the bank or insured branch of a foreign bank not

less than 30 days written notice of its intention to terminate insured status. The period of correction of not less than 20 days shall be fixed by the Board in any case where the Board in its discretion has determined that the insurance risk of the FDIC is unduly jeopardized, or fixed by the Comptroller of the Currency in the case of a national bank, or a District bank or an insured Federal branch of a foreign bank, or fixed by the State authority in the case of an insured nonmember bank, including an insured State branch of a foreign bank, or fixed by the Board of Governors of the Federal Reserve System in the case of a State member bank.

(b) *Hearing.* The notice shall fix a time and place for a hearing on the proposed termination of insurance, before an administrative law judge selected by the Office of Personnel Management. The rules and procedures of subpart B of this part and the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) shall apply. After consideration of the record made at the hearing, the Board shall make written findings which shall be conclusive.

§ 308.28 Order terminating insured status.

If the Board of Directors finds that any unsafe or unsound practice or condition, or violation specified in the notice issued pursuant to § 308.24 has been established and has not been corrected within the time prescribed in § 308.27(a), the Board may order that the insured status of the bank or branch be terminated on a subsequent date not earlier than the expiration of the time period specified in the notice of intention issued pursuant to § 308.27(a).

§ 308.29 Consent to termination of insured status.

If the bank does not appear by a duly authorized representative at the hearing pursuant to § 308.27(b), the bank shall be deemed to have consented to termination of the insured status of the bank or branch. The administrative law judge shall promptly report this failure to appear to the Board of Directors. The Board may then issue an order terminating the insured status of the bank or branch.

§ 308.30 Notice to depositors of termination of insured status.

Within the time specified by the Board of Directors and prior to the date of termination of the insured status of a bank or branch, the bank shall mail a notice of termination of insured status to each depositor at the depositor's last address of record on the books of the bank or branch. The bank shall publish the notice in two issues of a local newspaper of general circulation and shall furnish the FDIC with proof of such publications. The notice shall be as follows:

Notice

(Date) ————————.

1. The status of the ————————, as an (insured bank) (insured branch) under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on the ——day of ————, 19—;

2. Any deposits made by you after that date, either new deposits or additions to existing deposits, will not be insured by the Federal Deposit Insurance Corporation;

3. Insured deposits in the (bank) (branch) on the ——day of ————, 19—will continue to be insured, as provided by the Federal Deposit Insurance Act, for 2 years after the close of business on the ——day of ————, 19—; Provided, however, that any withdrawals after the close of business on the ——day of ————, 19—, will reduce the insurance coverage by the amount of such withdrawals.

————————————

(Name of bank or branch)

————————————

(Address)

The notice may include any additional information the bank deems advisable.

§ 308.31 Termination of insured status of bank not engaged in the business of receiving deposits, other than trust funds.

(a) *Notice to show cause.* When the Board of Directors has evidence that an insured nonmember bank or an insured bank is not engaged in the business of receiving deposits, other than trust funds, the Board shall give written notice of this to the bank and shall direct the bank to show cause why its insured status should not be terminated under the provisions of section 8(p) of the Federal Deposit Insurance Act. The bank shall have 30 days after receipt of the notice, or such longer period prescribed by the Board, to submit affidavits or other written proof that it is engaged in the business of receiving deposits, other than trust funds.

(b) *Hearing and notice of termination date.* Upon written request of the bank, the Board shall authorize a hearing before an administrative law judge selected by the Office of Personnel Management. The rules and procedures of subpart B of this part and the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) shall apply to the hearing. If, upon consideration of the record made at the hearing, the Board finds that the bank is not engaged in the business of receiving deposits, other than trust funds, the finding shall be conclusive and the Board shall notify the bank that its insured status will terminate at the expiration of the first full semiannual assessment period following issuance of the notice.

(c) *Notice to depositors of termination of insured status.* Within the time specified by the Board and prior to the date of termination of its insured status, the bank shall mail a notice of termination of insured status to each depositor at the depositor's last address of record on the books of the bank. The bank shall publish the notice in two issues of a local newspaper of general circulation and shall furnish the FDIC with proof of such publications. The notice shall be as follows:

Notice

(Date) ————————.

The status of the ———————— as an (insured bank) (insured branch) under the Federal Deposit Insurance Act, will terminate on the ——day of ————, 19—, and its deposits will thereupon cease to be insured.

————————————

(Name of bank or branch)

————————————

(Address)

The notice may include any additional information the bank deems advisable.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 308.32 Scope.

(a) The rules and procedures of subpart B and this subpart apply to proceedings by the Board of Directors to order an insured nonmember bank or its official to cease and desist from practices and violations described in section 8 of the Federal Deposit Insurance Act and enumerated in § 308.33.

(b) The rules and procedures of subpart B and this subpart apply to proceedings by the Board of Directors to order a municipal securities dealer or a person associated with the municipal securities dealer to cease and desist from any violation of law or regulation specified in section 15B(c)(5) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78o–4(c)(5)), where the municipal securities dealer is an insured nonmember bank as defined in § 308.01, a subsidiary or department or division thereof.

(c) The rules and procedures of subpart B and this subpart apply to proceedings by the Board of Directors to order a clearing agency or transfer agent to cease and desist from failure to comply with the applicable provisions of section 17, 17A, and 19 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q, 78q–1, 78s), and the applicable rules and regulations thereunder, where the clearing agency

or transfer agent is an insured nonmember bank as defined in § 308.01, or a subsidiary thereof.

§ 308.33 Grounds for cease-and-desist orders.

The Board of Directors may issue and serve upon any insured nonmember bank or its official a written notice of charges and of hearing as specified in § 308.35, if (a) in the Board's opinion the bank or official is engaging or has engaged in an unsafe or unsound practice, or (b) the Board has reasonable cause to believe the bank or official is about to engage in an unsafe or unsound practice or (c) in the Board's opinion the bank or official has violated or the Board has reasonable cause to believe that the bank or official is about to violate a law, rule or regulation, or any condition the Board has imposed in writing in connection with granting an application or request of the bank, or any written agreement with the FDIC.

§ 308.34 Notice to State supervisory authority.

The Board of Directors shall give the appropriate State supervisory authority timely notice of its intent to institute a proceeding pursuant to subpart D, and the grounds therefor. The proceeding shall be conducted according to subpart D, unless within the time period specified in the notice pursuant to § 308.35, the State supervisory authority has effected satisfactory corrective action.

§ 308.35 Notice of charges and of hearing, and consent.

The notice issued pursuant to § 308.33 shall contain a statement of the facts constituting any alleged violation or unsafe or unsound practice, and shall fix a time and place for a hearing to determine whether an order to cease and desist should issue against the bank or its official. The hearing shall be not earlier than 30 days nor later than 60 days after service of the notice, unless an earlier or later date is set by the Board of Directors in its discretion at the request of any party served with the notice. If such party does not appear at the hearing personally or by a duly authorized representative, the party will be deemed to have consented to issuance of the cease-and-desist order.

§ 308.36 Issuance and effective date of cease-and-desist order.

(a) *Issuance.* Upon consent, or if upon the record made at any hearing referred to in § 308.35, the Board of Directors finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and cause to be served upon the bank or its official, an order to cease and desist from any such violation or practice and to take affirmative action to correct any conditions resulting therefrom.

(b) *Effective date.* A cease-and-desist order shall become effective at the expiration of 30 days after the service of the order upon the bank or its official. A cease-and-desist order issued upon consent shall become effective at the time specified therein. All cease-and-desist orders shall remain effective and enforceable, except to the extent they are stayed, modified, terminated, or set aside by the Board of Directors or a reviewing court.

§ 308.37 Issuance and effective date of temporary cease-and-desist order.

(a) *Issuance.* When the Board of Directors determines that the violation, threatened violation or the unsafe or unsound practice (or the continuation of any of the foregoing) as specified in the notice of charges pursuant to § 308.35, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to weaken seriously the condition of the bank or otherwise to prejudice seriously the interests of its depositors prior to the completion of the proceedings pursuant to section 8(b) of the Federal Deposit Insurance Act and § 308.35, the Board may issue a temporary order requiring the bank or its official to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings.

(b) *Effective date.* A temporary order shall become effective when served upon the bank or its official. Unless the order is set aside, limited or suspended by a court in proceedings authorized under the Federal Deposit Insurance Act, it shall remain effective and enforceable pending completion of administrative proceedings pursuant to the notice of charges issued under § 308.35 and until the Board of Directors dismisses the charges.

§ 308.38 Extraterritorial acts of foreign banks or their officials.

An act or practice committed outside the United States by a foreign bank or its official that would otherwise be a ground for issuing a cease-and-desist order under § 308.36, or a temporary cease-and-desist order under § 308.37, shall be a ground for an order only if the Board of Directors finds either that (a) the act or practice has been, is, or is likely to be a cause of, or carried on in connection with or in furtherance of, an act or practice committed within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the FDIC, or (b) the act or practice, if proven, would adversely affect the insurance risk of the FDIC.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

§ 308.39 Scope.

The rules and procedures of subpart B and this subpart apply to proceedings by the Board of Directors to remove or suspend directors or officers of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank, or proceedings to prohibit such director, officer or other person from further participation in the conduct of the affairs of such bank, upon the grounds set forth in section 8(e) of the Federal Deposit Insurance Act and enumerated in this subpart. The rules and procedures of this subpart and subpart B do not apply to suspension, removal, or prohibition proceedings upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act and enumerated in subpart G.

§ 308.40 Grounds for removal or prohibition.

(a) The Board of Directors may issue and serve upon a director or officer of any insured nonmember bank a written notice of its intention to remove the individual from office when the Board determines that (1) the individual has committed a violation of law, rule, regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has engaged in any act or omission or practice constituting a breach of fiduciary duty as a director or officer; and (2) the bank has suffered or will probably suffer substantial financial loss or other damage, or that the interests of its depositors could be seriously prejudiced by the violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty. The violation, practice, or breach of fiduciary duty must be one that involves personal dishonesty on the part of the individual, or that demonstrates the individual's willful or continuing disregard for the safety or soundness of the bank.

(b) The Board may issue and serve a written notice of its intention to remove any director or officer or an insured nonmember bank from office when the

Board determines that the individual by conduct or practice with respect to another insured bank or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety or soundness, and, in addition, has evidenced unfitness to continue as a director or officer.

(c) The Board may issue and serve upon any other person participating in the conduct of the affairs of an insured nonmember bank a written notice of its intention to prohibit the individual's further participation in the conduct of the affairs of the bank when the Board determines that the individual by conduct or practice with respect to such bank or other insured bank or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for the safety or soundness of such insured bank and has evidenced unfitness to participate in the conduct of the affairs of such insured bank.

§ 308.41 Notice to State supervisory authority.

The Board of Directors shall give the appropriate State supervisory authority timely notice of its intent to institute a proceeding pursuant to subpart E, and the grounds therefor. The proceeding shall be conducted according to subpart E unless within the time specified in the notice pursuant to § 308.42, the State supervisory authority has effected satisfactory corrective action.

§ 308.42 Notice of intention to remove, hearing and consent.

A written notice issued pursuant to § 308.40 shall be served upon the director, officer or other person named therein, and a copy shall be served upon the bank concerned. The notice shall state the facts constituting the grounds for removal or prohibition and shall fix a time and place for a hearing. The hearing shall not be earlier than 30 days nor later than 60 days after the date of service of the notice, unless an earlier or a later date is set by the Board of Directors at the request of (a) the director or officer or other person, and for good cause shown, or (b) the Attorney General of the United States. Failure of the individual to appear at the hearing in person or by a duly authorized representative shall be deemed a consent to issuance of an order of removal or prohibition.

§ 308.43 Issuance and effective date of removal or prohibition order.

When the Board of Directors finds upon the record made at a hearing referred to in § 308.42 that any of the grounds specified in the notice have been established, the Board may issue orders of removal or prohibition that shall become effective at the expiration of 30 days after the date of service of the order upon the individual and the bank. A consent order issued by the Board in accordance with § 308.42 shall become effective at the time specified therein. All orders shall remain effective and enforceable except to the extent they are stayed, modified, terminated or set aside by the Board or a reviewing court.

§ 308.44 Grounds for suspension or prohibition.

The Board of Directors may suspend from office or prohibit from further participation in the conduct of the affairs of an insured nonmember bank, a director or officer of such bank or any other person participating in the conduct of the affairs of such bank, as referred to in § 308.40, when the Board deems it necessary for the protection of the bank or the interests of its depositors.

§ 308.45 Issuance and effective date of suspension or prohibition order.

(a) *Notice of suspension or prohibition.* Notice of suspension or prohibition shall be given by written order accompanying a notice issued pursuant to § 308.42, and setting forth the grounds for the suspension or prohibition as specified in § 308.44. The order shall be served upon the officer, director, or other person participating in the conduct of the affairs of the bank, and a copy shall be served upon the bank.

(b) *Effective date.* A suspension or prohibition shall become effective upon service of the order of suspension or prohibition and unless stayed by a court in proceedings authorized by the Federal Deposit Insurance Act, the order shall remain in effect pending completion of the administrative proceedings pursuant to the notice served under § 308.42 and until the Board of Directors dismisses the charges specified in such notice.

§ 308.46 Extraterritorial acts of officials of foreign banks.

An act or practice committed outside the United States by a director or officer of a foreign bank or by any other person participating in the conduct of the affairs of a foreign bank, that would otherwise be a ground for suspension, removal, or prohibition proceedings under this subpart, shall be a ground for such proceedings only if the Board of Directors finds that (a) the act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the FDIC, or (b) the act or practice, if proven, would adversely affect the insurance risk of the FDIC.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

§ 308.47 Scope.

The procedures in this subpart shall be followed in proceedings pursuant to section 10(c) of the Federal Deposit Insurance Act, conducted in connection with examinations or investigations of banks.

§ 308.48 Order to conduct proceedings.

A proceeding pursuant to section 10(c) shall be initiated only upon issuance of an order by the Board of Directors, the General Counsel or designee thereof, or the Director of the Division of Bank Supervision or designee thereof. The order shall designate a presiding officer as the FDIC's representative to conduct such proceedings. Upon application and for good cause shown, the Board or the person issuing the order may limit, quash, modify or withdraw the order.

§ 308.49 Powers of presiding officer.

The presiding officer in a section 10(c) proceeding shall have the power, among other things, to administer oaths and affirmations, to take and preserve testimony under oath, to issue subpenas and subpenas duces tecum and to apply for their enforcement to the United States District Court for the judicial district or the United States court in any territory in which the main office of the bank is located or in which the witness resides or conduct business. The Board or a person issuing the order initiating the proceeding may limit, quash, or modify any subpena or subpena duces tecum, upon application and for good cause shown. The presiding officer shall report to the Board of Directors any instance where any person has been guilty of dilatory, obstructionist, or contumacious conduct during the proceeding, or any other instance involving a violation of these rules. The Board shall thereupon take such action as the circumstances warrant, and in addition may exclude the person from further participation in the proceeding.

§ 308.50 Proceedings confidential.

Proceedings pursuant to section 10(c) shall be confidential unless otherwise provided by § 308.51(c). Information or documents obtained by the FDIC in the course of such proceedings shall be disclosed in accordance with Part 309 of the FDIC's rules and regulations, and as otherwise required by law.

§ 308.51 Rights of witnesses.

In a proceeding pursuant to section 10(c):

(a) Any person compelled or requested to furnish testimony, documentary evidence, or other information, shall upon request be shown the order initiating the proceeding. At the discretion of the presiding officer, a copy of the order may be furnished to such person.

(b) Any person compelled, requested or permitted to appear and testify has the right to be accompanied, represented and advised by counsel. While testifying, such person may have counsel present who may (1) advise the witness before, during and after such testimony; (2) briefly question the witness at the conclusion of such testimony for clarification of answers; (3) make summary notes during such testimony solely for the use of the witness.

(c) All persons testifying shall be sequestered. Such persons and their counsel shall not be present during the testimony of any other person, unless permitted in the discretion of the presiding officer.

(d) If the record developed in the course of the proceeding contains allegations of wrongdoing by any person with respect to the affairs or ownership of any bank, such person shall be advised of the alleged wrongdoing and shall be afforded a reasonable opportunity, consistent with administrative efficiency, to produce rebuttal evidence in documentary form (including depositions and statements under oath), or in the form of testimony given before the presiding officer. The evidence shall be on the record.

(e) Witness fees shall be paid in accordance with § 308.10.

§ 308.52 Service of subpena.

Service of a subpena shall be in accordance with § 308.08(c).

§ 308.53 Transcripts.

Transcripts of testimony, if any, in a proceeding pursuant to section 10(c) shall be recorded by the official reporter, or by any other person or means designated by the presiding officer. A person submitting documentary evidence or testimony may obtain a copy of the transcript, if any, upon payment of the cost thereof.

§ 308.54 Special examinations and examinations of closed banks.

Procedures in this subpart shall be followed when proceedings pursuant to section 10(c) are instituted in connection with the special examination of any State member bank, any national or District bank, any insured Federal branch of a foreign bank, or the examination of any closed insured bank or branch, or the examination of an affiliate of any of the foregoing.

Subpart G—Procedures and Standards Applicable to Suspension, Removal and Prohibition Where Felony Charged, and Petition for Reconsideration of Denial of an Application Under Section 19 of the Federal Deposit Insurance Act

§ 308.55 Scope.

The rules and procedures set forth in this subpart apply to proceedings by the Board of Directors (a) to suspend any director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, or to prohibit such individuals from further participation in the conduct of the affairs of the bank where the individual is charged in any State, Federal or territorial information or indictment, or charged in any complaint authorized by a United States attorney, with the commission of, or participation in, a crime involving dishonesty or breach of trust punishable by imprisonment exceeding one year under State or Federal law; (b) to remove from office any such director or officer or other person, or to prohibit such individuals from further participation in the conduct of the affairs of the bank, except with the consent of the Board, where a judgment of conviction not subject to further appellate review has been entered against the individual for the commission of, or participation in, a crime involving dishonesty or breach of trust punishable by imprisonment exceeding one year under State or Federal law; and (c) to consider a petition for reconsideration of a denial of an application by an insured bank under section 19 of the Federal Deposit Insurance Act (hereafter in this subpart "section 19") to engage the services of an individual who has been convicted of any criminal offense involving dishonesty or a breach of trust.

§ 308.56 Relevant considerations.

(a) In deciding whether to suspend, remove or prohibit under this subpart, the Board of Directors shall consider (1) whether the alleged offense is a crime which is punishable by imprisonment for a term exceeding one year under State or Federal law, and which involves dishonesty or breach of trust; and (2) whether the presence of the individual in a position with an insured bank may pose a threat to the interest of the bank's depositors or may threaten to impair public confidence in the bank. The Board of Directors may consider additional factors in the specific case that appear relevant to its decision to continue in effect, rescind, terminate or modify a suspension, removal or prohibition order. The Board shall not consider the guilt or innocence of the individual charged with the crime.

(b) In proceedings for reconsideration of a denial of an application under section 19, the Board of Directors shall consider: (1) Whether the conviction is for a criminal offense, either misdemeanor or felony, involving dishonesty or breach of trust; (2) whether service of the individual to the bank constitutes a significant threat to the safety and soundness of the applicant bank or the interests of its depositors, or may threaten to impair public confidence in the bank; (3) evidence of the affected individuals's rehabilitation; (4) the position to be held by the affected individual; and (5) applicable fidelity bond coverage for the affected individual. In evaluating these factors, significant weight will be given to the judgment of the applicant bank's boards of directors and bonding company, provided the judgments are made at arm's length.

§ 308.57 Notice of suspension or prohibition.

Proceedings by the Board of Directors to suspend an individual from office or prohibit further participation in the conduct of the affairs of the bank as referred to in § 308.55(a), shall be initiated by written notice of suspension or prohibition served on the individual, upon prior determination by the Board that the offense alleged in the information or indictment or complaint involved dishonesty or breach of trust, and that the individual's participation in the conduct of the affairs of the bank may pose a threat to the bank's depositors or may threaten to impair public confidence in the bank. The suspension or prohibition shall remain in effect until final disposition of the information or indictment or complaint, and until the Board terminates the suspension or prohibition. A copy of the notice shall be served upon the bank concerned.

§ 308.58 Order of removal or prohibition.

When a final judgment of conviction not subject to further appellate review is entered against a director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank for a crime referred to in § 308.55(b), the Board of Directors may issue and serve upon the individual an order removing the individual from office or prohibiting further participation in the conduct of the affairs of the bank except with the Board's consent where continued service or participation by the director, officer, or other person may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank. A copy of the order shall be served upon the bank, at which time the director or officer named in the order shall be removed from office. The order shall remain effective until completion of the hearing or appeal authorized under section 8(g) of the Federal Deposit Insurance Act and this subpart, unless the order is terminated by the Board. A finding of not guilty or other disposition of the case will not preclude the Board from thereafter instituting proceedings to remove an individual from office or prohibit further participation in the conduct of the affairs of the bank, pursuant to section 8(e) of the Federal Deposit Insurance Act and subpart E.

§ 308.59 Notice of opportunity and request for hearing.

A notice pursuant to § 308.57, an order pursuant to § 308.58 and a denial of an application under section 19 shall be accompanied by (a) a statement that within 15 days of receipt of such notice or order, the individual or, in the case of a section 19 denial, the affected individual or the bank may file with the Executive Secretary a written request for a hearing stating the relief desired and the grounds therefor and that is accompanied by supporting evidence when available; and (b) a description of the hearing procedure and relevant considerations specified in § 308.56.

§ 308.60 Waiver of hearing.

Failure to request a hearing pursuant to § 308.59 shall constitute a waiver of the opportunity of hearing. Failure to appear at a hearing in person, through an authorized bank officer, through counsel, or personally with counsel shall constitute a waiver of hearing. The individual or, in the case of a section 19 denial, the affected individual or the bank may in writing waive a hearing and elect to have the matter determined by the Board of Directors on the basis of written submissions.

§ 308.61 Hearing.

(a) The Executive Secretary shall order a hearing to commence within 30 days after receipt of a request for hearing pursuant to § 308.59, except in the case of a petition for reconsideration of denial of a section 19 application, for which the time periods set forth in § 303.10(e) shall apply. The hearing shall be held in Washington, D.C., or at another designated place, before a presiding officer designated by the Board of Directors. The Board may order a later hearing date upon petition of the individual or, in the case of a section 19 denial, the affected individual or the bank afforded the hearing.

(b) The provisions of § 308.04, § 308.05, § 308.20 and § 308.22 apply to proceedings conducted under this subpart, except as otherwise specifically provided. The formal rules of evidence and the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554–557) shall not apply to the hearing.

(c) The individual or, in the case of a section 19 denial, the affected individual or the bank may appear at the hearing personally, through an authorized bank officer, through counsel, or personally with counsel, and shall have the right to introduce relevant and material documents and to present oral argument.

(d) Staff members of the FDIC's Office of the General Counsel may attend the hearing and participate as a party.

(e) The proceedings shall be recorded and a transcript shall be furnished to the individual or, in the case of a section 19 denial, the affected individual or the bank afforded the hearing upon request and after payment of the cost thereof. At the discretion of the presiding officer witnesses may be presented within specified time limits, provided that a list of witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall be sworn, unless otherwise directed by the presiding officer. The presiding officer may ask questions of any witness. Each party shall have the opportunity to cross-examine any witness presented by an opposing party.

(f) In the course of, or in connection with any proceeding under this subpart, the Board of Directors or the presiding officer shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum. Where the presentation of witnesses is permitted, the presiding officer may require the attendance of witnesses from any State, territory or other place subject to the jurisdiction of the United States at any location where the proceeding is being conducted. Witness fees shall be paid in accordance with § 308.10. The Board or the presiding officer may require the production of documents from any such State, territory, or other place subject to the jurisdiction of the United States.

(g) Upon the request of the individual or, in the case of a section 19 denial, the affected individual or the bank afforded the hearing or the staff members of the FDIC's Office of the General Counsel, the record shall remain open for five business days following the hearing for the parties to make additional submissions to the record. The record shall thereafter be closed.

(h) The presiding officer shall make recommendations to the Board, where possible, within 10 days after the record is closed.

§ 308.62 Decision of the Board of Directors

Within 60 days following the hearing or receipt of written submissions pursuant to § 308.60, the Board of Directors shall notify the individual or, in the case of a section 19 denial, the affected individual and the bank whether the suspension or prohibition or denial will be continued, terminated, or otherwise modified, or whether the order of removal or prohibition or denial will be rescinded or otherwise modified. The notification shall state the basis for any decision of the Board adverse to the individual or, in the case of a section 19 denial, the affected individual and the bank. The Board shall promptly rescind or modify an order of removal or prohibition or denial where the decision is favorable to the individual or, in the case of a section 19 denial, the affected individual and the bank.

§ 308.63 Reconsideration by the Board of Directors

The individual, except for the affected individual or the bank in the case of a section 19 denial, afforded a hearing pursuant to § 308.61 shall have 10 days following receipt of the decision of the Board of Directors to petition the Board for reconsideration. The individual or, in the case of a section 19 denial, the affected individual or the bank shall be entitled to petition the Board for reconsideration of its decision after the expiration of 12 months from the date of the Board's decision. A petition shall state with particularity the basis for reconsideration, the relief sought, and any exceptions to the findings of the Board. It may be accompanied by a supporting memorandum and by other documentation. Promptly following

receipt of the petition for reconsideration, the Board shall determine whether to grant a hearing.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

§ 308.64 Scope.

(a) The rules and procedures in this subpart and subpart B apply to proceedings by the Board of Directors to assess and collect civil penalties from (1) an insured nonmember bank or its official (as defined in § 308.02(l)) where the bank or official has violated the terms of any cease-and-desist order which has become final, or (2) an insured nonmember bank or its official where the bank or official has violated the provisions of section 22(h) or 23A of the Federal Reserve Act (as made applicable by section 18(j) of the Federal Deposit Insurance Act), or (3) the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended.

(b) As used in § 308.65, § 308.66, and § 308.67, the term "has violated" includes, but is not limited to, any action (alone or with another) for or towards causing, bringing about, participating in, counseling, or aiding or abetting a violation.

§ 308.65 Violation of order as ground for assessment.

If, in the opinion of the Board of Directors, an insured nonmember bank or its official has violated any final order issued pursuant to section 8(b) or 8(c) of the Federal Deposit Insurance Act and subpart D, the Board may assess upon the bank or official a civil penalty of not more than $1,000 per day for each day the violation continues.

§ 308.66 Violation of laws limiting dealings with bank officials and affiliates as ground for assessment.

If, in the opinion of the Board of Directors, an insured nonmember bank or its official has violated any provision of section 22(h) or 23A of the Federal Reserve Act, as amended (made applicable by section 18(j) of the Federal Deposit Insurance Act), or has violated any lawful regulation issued pursuant thereto, the Board may assess upon the bank or official a civil penalty of not more than $1,000 per day for each day the violation continues.

§ 308.67 Violation of law governing correspondent accounts as ground for assessment.

If, in the opinion of the Board of Directors, an insured nonmember bank or its official has violated any provision of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended, the Board may assess upon the bank or official a civil penalty of not more than $1,000 per day for each day the violation continues.

§ 308.68 Relevant considerations.

In determining the amount of the penalty assessed pursuant to § 308.65, § 308.66, or § 308.67, the Board of Directors shall consider the financial resources and good faith of the insured nonmember bank or its official, the gravity of the violation, any previous violations, and such other matters as justice may require.

§ 308.69 Notice of assessment of civil penalty, and opportunity and request for hearing.

(a) Civil penalties pursuant to § 308.65, § 308.66, or § 308.67 shall be assessed by written notice served upon the bank or official. The notice shall state the amount of the penalty, the period for payment, the legal authority for assessment, and the matters of fact or law constituting the grounds for assessment.

(b) The notice shall further indicate that within 10 days of receipt of the notice, the individual assessed may file with the Executive Secretary or other designee of the Board of Directors a written request for a hearing. A description of the hearing procedure shall accompany the notice.

(c) The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means, to the last known address of the party assessed.

§ 308.70 Waiver of hearing.

Failure to request a hearing pursuant to § 308.69(b) shall constitute a waiver of the opportunity of hearing and the notice of assessment pursuant to § 308.69(a) shall constitute a final and unappealable order.

§ 308.71 Hearing and order.

The Executive Secretary or designee of the Board of Directors shall order a hearing to commence within 60 days after receipt of a request for a hearing pursuant to § 308.69(b). The provisions of the Administrative Procedure Act (5 U.S.C. 554–557) and subpart B shall apply to the hearing. If, upon the record made at the hearing, the Board finds that the grounds for assessing the civil penalty have been established, the Board shall issue its final order and cause it to be served upon the party. The final order shall require payment of the penalty, as specified in the notice of assessment, or the Board, in its discretion, may reduce the amount of the penalty.

§ 308.72 Payment of civil penalty.

Civil penalties assessed pursuant to § 308.65, § 308.66, or § 308.67 are payable and to be collected within the 60-day period after issuance of the notice of assessment, unless the Board of Directors shortens the period for payment or makes the amount payable upon receipt of the notice, where the Board determines the purpose of the penalty would be better served thereby. Notwithstanding any other provision of this subpart, if a party has requested a hearing pursuant to § 308.69(b) to challenge a penalty or an antecedent finding, the party shall not be required to pay the penalty until the Board has issued a final order following the hearing. Checks in payment of civil penalties shall be forwarded to the Division of Accounting and Corporate Services, Federal Deposit Insurance Corporation, and made payable to the Treasurer of the United States. The Office of the Director of Accounting and Corporate Services shall prepare a receipt and notify the Executive Secretary who shall close the record on the case.

Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

§ 308.73 Scope.

The rules and procedures in this subpart and subpart B apply to proceedings by the Board of Directors in connection with the disapproval by the Board of a proposed acquisition of control of an insured nonmember bank.

§ 308.74 Grounds for disapproval.

The following are grounds for disapproval of a proposed acquisition of control:

(a) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the banking business in any part of the United States;

(b) The effect of the proposed acquisition of control in any part of the United States would be to substantially lessen competition or tend to create a monopoly or would in any other manner be in restraint of trade, and anticompetitive effects of the proposed acquistion of control are not clearly

outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

(c) The financial condition of any acquiring person might jeopardize the financial stability of the bank or prejudice the interest of the depositors of the bank;

(d) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

(e) Any acquiring person neglects, fails, or refuses to furnish to the FDIC all the information required by it.

§ 308.75 Notice of disapproval and opportunity and request for hearing.

(a) Within 3 days of its decision to disapprove a proposed acquisition of control of an insured nonmember bank, the Board of Directors shall serve a written notice of disapproval upon the party seeking to acquire control. The notice shall state the legal authority and the basis for the disapproval.

(b) The notice shall further indicate that within 10 days of receipt the individual may file with the Executive Secretary a written request for a hearing. A description of the hearing procedure shall accompany the notice.

(c) The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means to the last known address of the party being afforded the notice.

(d) Failure to request a hearing pursuant to this section shall constitute a waiver of the opportunity of hearing and the notice of disapproval shall constitute a final and unappealable order.

§ 308.76 Exceptions.

(a) *Filing.* The Board of Directors may direct the party requesting a hearing pursuant to § 308.75(b) or the party may elect to file exceptions to the statement of the basis for disapproval contained in the notice of disapproval. Exceptions shall be filled with the Executive Secretary within 20 days after receipt of the notice by the party, unless the Board specifies a different filing period of not less than 10 days after receipt of the notice. For good cause shown, the Executive Secretary or the administrative law judge may permit filing of exceptions after expiration of the filing period.

(b) *Requirements.* Exceptions filed under this section to a statement of the basis for disapproval of a proposed acquisition of control shall specifically designate the part of the statement to which exception is taken. Only those parts of a statement of the basis for disapproval so designated may be challenged by the party at the hearing.

(c) *Effect of failure to except.* Failure of a party to timely file required exceptions to a statement of the basis for disapproval of a proposed acquisition of control shall be deemed a waiver of the party's right to appear and contest the disapproval and shall authorize the administrative law judge to conduct the hearing without further notice to that party. If every party has waived the right to appear in a disapproval proceeding, the administrative law judge is authorized to recommend to the Board that it dispense with further proceedings.

§ 308.77 Hearing and order.

The Executive Secretary shall order a hearing to commence within 60 days after receipt of a request for hearing pursuant to § 308.75(b). If the appropriate State bank supervisory agency has submitted views and recommendations on the proposed acquisition, it shall be entitled as of right to appear as a party. The provisions of the Administrative Procedure Act (5 U.S.C. 554–557) and subpart B shall apply to the hearing. If, upon the record made at the hearing, and after giving due considerations to any views or recommendations previously submitted by an appropriate State bank supervisory agency, the Board of Directors finds that there are adequate grounds for approving or disapproving the acquisition, the Board shall issue its final order approving or disapproving the acquisition and cause it to be served on the party seeking control.

Subpart J—Rules and Procedures Applicable to Proceedings Relating to Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

§ 308.78 Scope.

The rules and procedures of this subpart apply to proceedings by the Board of Directors to assess civil penalties against any person for willful violation of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) or any regulation or order issued pursuant thereto, in connection with the affairs of an insured nonmember bank.

§ 308.79 Notice of intention to assess civil penalty and opportunity and request for hearing.

(a) If, in the opinion of the Board of Directors, any person has willfully violated the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) or any regulation or order issued pursuant thereto, in connection with the affairs of an insured nonmember bank, the Board may cause notice to be served upon the person of its intention to assess a civil penalty of not more than $10,000 per day for each day the violation continues. The notice shall state the legal authority and grounds for assessment and the amount of the penalty.

(b) The notice shall further state that within 10 days of receipt of the notice the individual may file with the Executive Secretary a written request for a hearing. A description of the hearing procedure shall accompany the notice.

(c) The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means, to the last known address of the person assessed.

§ 308.80 Waiver of hearing.

Failure to request a hearing pursuant to § 308.79(b) shall constitute a waiver of the opportunity for hearing. The Board of Directors, for good cause shown, may extend the period to request a hearing. A party may in writing waive a hearing and elect to have the propriety of the penalty determined by the Board solely on the basis of written submissions.

308.81 Hearing.

The Executive Secretary shall order a hearing to commence within 30 days after receipt of a request for a hearing pursuant to § 308.79(b), in Washington, D.C., or another place designated by the Executive Secretary, before a presiding officer designated by the Board of Directors. The provisions of § 308.61 (b), (c), (d), (e), and (g) shall apply to the hearing.

§ 308.82 Assessment.

If, after considering the data, views, and arguments presented at the hearing pursuant to § 308.81, or any written submissions made pursuant to § 308.80, and the gravity of the violation and the financial resources and good faith of the party, the Board concludes that a civil penalty is warranted, it shall assess against the party a penalty of not more than $10,000 per day for each day the violation continues. Based upon the same consideration, the Board, in its discretion, may reduce the penalty from the amount stated in the notice of intention. The Board shall cause a final order of assessment to be served upon the party.

§ 308.83 Collection.

The FDIC may collect the civil penalty assessed pursuant to § 308.82 by agreement with the party, or the FDIC may bring an action against the party to recover the penalty amount in the appropriate United States District Court.

Subpart K—Rules and Procedures for Imposition of Sanctions Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Clearing Agencies or Transfer Agents

§ 308.84 Scope.

The rules and procedures in this subpart and subpart B apply to proceedings by the Board of Directors (a) to censure, limit the activities of, suspend, or revoke the registration of, any municipal securities dealer for which the FDIC is the appropriate regulatory agency; and (b) to censure, or suspend or bar from being associated with such a municipal securities dealer, any person associated with such a municipal securities dealer; and (c) to deny registration to, censure, limit the activities of, suspend, or revoke the registration of, any transfer agent or clearing agency for which the FDIC is the appropriate regulatory agency. This subpart and subpart B shall not apply to proceedings to postpone or suspend registration of a transfer agent or clearing agency pending final determination of denial or revocation of registration.

§ 308.85 Grounds for imposition of sanctions.

(a) The Board of Directors may issue and serve upon any municipal securities dealer for which the FDIC is the appropriate regulatory agency, a written notice of its intention to censure, limit the activities or functions or operations of, suspend, or revoke the registration of, such municipal securities dealer, when the Board determines (1) that such municipal securities dealer (i) has committed any prohibited act or omitted any required act specified in subparagraph (A), (D), or (E) of section 15(b)(4) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78o), or (ii) has been convicted of any offense specified in section 15(b)(4)(B) of that Act within 10 years of commencement of proceedings under this section, or (iii) is enjoined from any act, conduct or practice specified in section 15(b)(4)(C) of that Act; and (2) that it is in the public interest to impose any of the foregoing sanctions of this paragraph (a).

(b) The Board of Directors may issue and serve upon any person associated or seeking to become associated with a municipal securities dealer for which the FDIC is the appropriate regulatory agency a written notice of its intention to censure, suspend or bar the person from being associated with the municipal securities dealer, when the Board determines (1) that such person (i) has committed any prohibited act or omitted any required act specified in subparagraph (A), (D) or (E) of section 15(b)(4) of the Securities Exchange Act of 1934, as amended, or (ii) has been convicted of any offense specified in section 15(b)(4)(B) of that Act within 10 years of the commencement of proceedings under this section, or (iii) is enjoined from any act, conduct or practice specified in section 15(b)(4)(C) of that Act; and (2) that it is in the public interest to censure, suspend or bar such person.

(c) The Board of Directors may issue and serve upon any transfer agent or clearing agency for which the FDIC is the appropriate regulatory agency, a written notice of its intention to deny registration to, censure, place limitations on the activities or functions or operations of, suspend, or revoke the registration of, the transfer agent or clearing agency, when the Board determines (1) that the transfer agent or clearing agency has willfully violated, or is unable to comply with, any applicable provision of section 17 or 17A of the Securities Exchange Act of 1934, as amended, or any applicable rule or regulation issued pursuant thereto; and (2) that it is in the public interest to impose any of the foregoing sanctions of this paragraph (c).

§ 308.86 Notice and consultation with the Securities and Exchange Commission.

Before initiating any proceedings under § 308.85 (a) or (b), the Board of Directors shall (a) notify the Securities and Exchange Commission of the identity of the municipal securities dealer or associated person against whom proceedings are to be initiated, and the nature of and basis for the proposed action, and (b) consult with the Securities and Exchange Commission concerning the effect of the proposed action on the protection of investors and the possibility of coordinating the action with any proceeding by the Commission against the municipal securities dealer or associated person.

§ 308.87 Notice of intention to impose sanctions.

A notice of intention to impose sanctions referred to in § 308.85 shall contain a statement of the proposed sanctions and the grounds for imposition of the sanctions, and shall fix a time and place for a hearing. The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means, to the last known address of the party upon whom sanctions are to be imposed.

§ 308.88 Hearing.

The hearing shall not be earlier than 30 days nor later than 60 days after the date of service of the notice, unless an earlier or later date is set by the Board of Directors at the request of the municipal securities dealer, associated person, or transfer agent or clearing agency, and for good cause shown. The procedures of subpart B and the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) shall apply to the hearing. Failure to appear at the hearing in person or by a duly authorized representative shall be deemed a consent to issuance of the order by the Board.

§ 308.89 Issuance and effective date of order imposing sanctions.

If the Board of Directors finds upon the record made at the hearing pursuant to § 308.88 that the grounds specified in the notice pursuant to § 308.87 have been established, the Board may issue an order containing the sanctions specified in the notice. The order shall be effective at the expiration of 30 days after the service of the notice, except that an order of censure, denial or revocation of registration is effective when served. A consent order in accordance with § 308.88 shall become effective at the time specified therein. All orders shall remain effective and enforceable except to the extent they are stayed, modified, terminated or set aside by the Board or a reviewing court; however, orders of suspension shall continue in effect no longer than 12 months.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Section 12(h) of the Securities Exchange Act of 1934

§ 308.90 Scope.

The rules and procedures of this subpart apply to proceedings by the Board of Directors to exempt in whole or in part, an issuer of securities from the provisions of section 12(g), 13, 14(a), 14(c), 14(d), or 14(f) of the Securities Exchange Act of 1934, as amended, or to exempt an officer or director or beneficial owner of securities of such an issuer from the provisions of section 16 of that Act.

§ 308.91 Application for exemption.

Any interested person may file a written application for an exemption under this subpart with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. The application shall specify the exemption sought and the reason therefor, and shall include a statement indicating why the exemption would be consistent with the public interest or the protection of investors.

§ 308.92 Newspaper notice.

If the Board of Directors decides to further consider the application for exemption, it shall serve upon the applicant instructions to publish one notice in a newspaper of general circulation in the community where the main office of the issuer is located. The applicant shall furnish proof of such publication to the Executive Secretary. The notice shall contain (a) the name and address of the issuer and the name and title of the applicant, (b) the exemption sought, (c) a statement that a hearing will be held, and (d) a statement that within 30 days of publication of the newspaper notice, interested persons may submit to the FDIC written comments on the application for exemption and a written request for an opportunity to be heard. The address of the FDIC must appear in the notice.

§ 308.93 Notice of hearing.

Within 10 days after expiration of the period for receipt of comments pursuant to § 308.92, the Executive Secretary shall serve upon the applicant and any person who has requested an opportunity to be heard, a notice indicating the place and time of the hearing, to be held not later than 30 days after service of the notice of hearing. The notice shall contain the name and address of the presiding officer designated by the Board of Directors and a statement of the matters to be considered.

§ 308.94 Hearing.

Parties to the hearing may appear personally, through counsel, or personally with counsel. Parties shall have the right to introduce relevant and material documents and to make an oral statement. The formal rules of evidence, the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554–557), and subpart B shall not apply. The Board of Directors or the presiding officer shall have discretion to permit presentation of witnesses within specified time limits, provided that a list of witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn. The presiding officer may ask questions of any witness and each party may cross-examine any witness presented by an opposing party.

§ 308.95 Decision of the Board of Directors.

Following submission of the hearing transcript to the Board of Directors, the Board may grant the exemption where it determines by reason of the number of public investors, the amount of trading interest in the securities, the nature and extent of the issuer's activities, the issuer's income or assets, or otherwise, that the exemption is consistent with the public interest or the protection of investors. An exemption shall be granted by an order specifying the terms of the exemption, the person to whom it is granted, and the period for which it is granted. A copy of the order shall be served upon each party to the proceeding.

By order of the Board of Directors, August 24, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 81-25207 Filed 8-27-81; 8:45 am]

BILLING CODE 6714-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1508 and 1509

Amendments to Requirements for Full-Size and Non-Full-Size Baby Cribs; Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of extension of comment period.

SUMMARY: The Commission recently proposed amendments to its requirements for full-size and non-full-size baby cribs to address head and neck entrapment hazards associated with certain design configurations on crib end or side panels. The Commission had specified that comments should be submitted by February 17, 1981. After considering the comments received, the Commission staff concluded that the proposed amendments would need certain technical revisions. The Commission agrees that the technical revisions recommended by the staff are appropriate and has therefore decided to extend the period for receipt of written comments on the revisions until September 28, 1981.

DATE: Written comments limited to the staff recommended revisions to the proposed amendments must be received in the Office of the Secretary no later than September 28, 1981.

ADDRESS: Comments should be mailed (preferably with five copies) to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received copies may be seen in the Office of the Secretary, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207. All material which the Commission has that is relevant to this issue, including any comments that may be received on this issue, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207 (202) 634–7700.

FOR FURTHER INFORMATION CONTACT: Elaine H. Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6453.

SUPPLEMENTARY INFORMATION:.

Proposed Amendments.

On December 16, 1980, the Commission proposed for public comment amendments to the requirements for full-size and non-full-size baby cribs to address entrapment hazards presented by certain configurations on the end and side panels of baby cribs (45 FR 82660). The amendments would add to the Commission's mandatory requirements for baby cribs a performance test which simulates the head and neck entrapment hazard pattern associated with certain designs of cribs. The test incorporates use of a headform probe developed by Commission staff based on relevant anthropometric data which correspond to the ages of the children at risk. A more detailed explanation of the background of the development of the headform probe as proposed is provided in the original proposed notice, cited above.

As proposed, the amendments would prohibit cutout designs on crib end or side panels that failed to comply with a performance test. By using a "headform probe" the test simulates the way that a child's head and neck can become entrapped. When the probe is placed in the cutout, it must be free to swing through a vertical arc without interference from any portion of the crib end or side panels.

The proposed amendments described the probe and the way it should be positioned at all times during the test procedure. The probe should be placed with its "neck" resting within the cutout area. The head of the probe should then be pivoted upward and backward, in a

vertical arc. The cutout would fail the proposed test if the head portion of the probe could not freely attain a full upright position. Figure 3 of the proposed amendments schematically described this procedure.

Suggested Changes to Proposed Test Procedure

As originally worded, the proposed requirements identified as a failure contact with any surfaces or edges other than those surfaces labeled "A" or "B" or the edges of those surfaces when the headform probe is rotated in a vertical arc after being placed in a cutout along the upper edge of a crib end or side panel. Some of the commentors objected to the wording of the requirement as overly restrictive in that it would prohibit may designs which could not be considered as entrapment hazards.

It was clearly not the intention of the proposed requirement and test procedure to prohibit such designs where contact is made with only one side of the headform probe. For example, a horizontal top rail with no cutouts but having a cornerpost extending vertically more than 2½ inches would fail the proposed requirements. A child's head or neck would not become entrapped by such a configuration. The Commission proposes to clarify the language of the requirements so that contact with only one side of the probe does not constitute failure. Single point contact with those surfaces coinciding with the back of a child's head will still be considered a failure. During the test the probe may be moved sideways so that the probe can be rotated to a full vertical position. Any simultaneous contact at 2 or more points on opposite sides of the probe would be considered a failure.

One commentor suggested expanding the identification of the surfaces of the probe and then specifying those combinations of surfaces which, when contacted by the probe during the test procedure, would constitute a failure to meet the requirements. Several sets of surfaces were cited by the commentor as potentially failing combinations.

The Commission has accepted the basic suggestion for additional labeling of surfaces in order to clarify the procedure and requirements. However, to identify all possible "failing" combinations would result in a cumbersome requirement with a lengthy and possibly confusing list of failures. In addition, the commentor's suggestion omitted consideration of possible panel contact with the edges formed by adjacent surfaces of the probe. The Commission proposes to revise the test procedure by identifying additional surfaces and edges of the probe (see revised figure 2 below) and simplifying the commentor's suggested definition of what constitutes failure to comply.

The Commission staff has also noted that, although not specifically addressed in the public comments, the proposed test procedure and requirements need to be revised to prevent the use of certain "vee"-shaped cutouts that could entrap an infant's head and present a risk of strangulation. These cutouts would have been permitted by the language of the proposed amendments.

The proposed amendments would have permitted symmetrical "vee"-shaped cutouts if the angle between the legs of the "vee" were less than the included angle between surfaces of the headform probe designated "B" in proposed figure 2. Such cutouts would allow passage of the probe, but only if the probe were permitted to ride upward on the edges of surfaces "B" as the probe is swung through a vertical arc. This action, however, is not consistent with the premise that gravity alone should be sufficient to allow a child to fall free without becoming entrapped.

The Commission, therefore, plans to revise the requirements in the final rule so that simultaneous contact between *both* surfaces "B" and the panel will not be permitted. Only contact with one surface "B" in addition to surface "A", or at least one of its edges, and the neck will be permitted.

There could also be "vee"-shaped cutouts that are asymmetric with respect to the vertical. Such a configuration would exist on a crib panel with a convex (semicircular) shape on its top edge and a finial, cornerpost or canopy support. Similar designs have been used for crib head and footboards. Depending on the angle formed, these designs could present the entrapment hazard, but would not fail the test if the probe is swung only through a *vertical* arc.

To prevent hazardous asymmetrical "vee"-shaped cutouts, the Commission plans to revise the test procedure to require that upon completion of the swing to the upright position, the probe be rocked sideways in a plane parallel to the plane of the crib panel. If the rocking motion causes simultaneous contact by both surfaces "B" or its edges (in any combination) and the panel, the cutout fails the test. The rocking motion would not affect the results of a test of a rectangular-shaped cutout that permits passage of the probe when it is swung through a vertical arc.

Economic Impact of Revisions to Proposed Amendments

The Commission staff has reviewed the changes in the test procedure to assure that their preliminary assessment of potential economic impact of the crib amendments is still valid. A review of 1980 and 1981 manufacturers' catalogs identified several models which contain an asymmetrical "vee" shape formed by the corner post or canopy support and a convex-shaped end panel. No identified crib models had dimensions that would definitely fail the revised procedure but would have passed the proposed test procedure and requirements. In any case, manufacturers are not precluded from using a "vee"-shaped cutout design as long as it passes the test requirements.

The Commission staff does not believe that the revisions to the proposed amendments explained above will place added burden on crib manufacturers. Rather, the revisions serve to clarify the test procedure and to assure that only potentially hazardous crib cutout designs are prohibited.

It is the opinion of the Commission staff that unless there is some as yet unidentified impact which could cause a major disruption in the design-production process, an effective date six months after the amendments are issued will provide the manufacturers with sufficient time to comply with the requirements.

Request for Comments

Because the issues discussed above resulted from information developed since the original proposal, the public has not had an opportunity to comment on this part of the proposed test procedure. Accordingly, the Commission is providing an additional opportunity for comment on the issues raised by the above discussed revisions. Since information currently available indicates that the economic impact of the revised test procedure will be minimal, the Commission believes that a period of 30 days is sufficient for the public to submit comments on the revisions. If no comments are received, or no substantive issues are raised with respect to the revisions, the Commission intends to publish final amendments to the requirements in accordance with the staff recommended revisions. If the Commission receives substantive technical comments on the revised test procedure, it will analyze the comments and publish a notice in the **Federal Register** explaining any revisions made in response to the comments received. The Commission is particularly interested in receiving comments on the technical changes from persons or groups having special knowledge or expertise as to the subject matter. For

convenience, the language of the revised proposed test procedure follows:

PART 1508—REQUIREMENTS FOR FULL SIZE BABY CRIBS

PART 1509—REQUIREMENTS FOR NON-FULL SIZE BABY CRIBS

§ 1508.11/1509.13 Requirements for cutouts.

Full-size/Non-full-size baby cribs shall comply with the following test requirement.

(a) Place the neck of head-form probe shown in Figure 2 into any cutout (partially-bounded opening) located along the upper edges of an end or side panel. The axis of the neck shall be horizontal and at right angles to the plane of the panel at the point of contact. The head portion of the probe shall be on the outer side of the panel. With the neck resting on the panel at any point within the cutout area (for compliance purposes, the Commission may test at all points that could result in a failure), and the front of the probe pointing downwards, draw the head of the probe towards the panel until surface "A" makes contact with the outer side of the panel (see Figure 3).

(b)(1) Press down on the neck to cause the head to swing upwards through the cutout in the panel. The probe shall not be rotated about the major axis of the neck during this procedure. The arc through which the head is swung shall be in a vertical plane and shall terminate when the major axis of the neck attains an upright position or is prevented from attaining an upright position by an obstruction. During the test, contact shall be maintained between surface "A" (or at least one of edges "AB"), the neck of the headform probe and the panel. If, during the swing to the upright position, a surface, other than surface "D", or edge adjacent to surface "D" is contacted, sideways motion of the headform shall not be restrained.

(2) Upon completion of the swing to the upright position, the headform may be rocked from side to side parallel to the plane of the panel while maintaining contact between surface "A" or an edge "AB" and the panel. The maximum angle through which the headform is rocked shall be determined by contact with the panel by a surface or edge other than "A" or "AB" or until one of the surfaces "B" is in a vertical plane.

(c) During the test described in paragraph (b) of this section, no portion of the panel shall contact:

(1) Simultaneously, more than one of surfaces "B", "C" or edges "BC", "CC", "CD" or "BD", in any combination if they are on opposing sides of the headform.

(2) Any of surfaces "D".

Note.—Edges are identified by the letter designations for surfaces that lie on either side of the edge.

(Secs. 2(f)(1)(D), (q)(1)(A), (s); 3(e)(1), 74 Stat. 372, 374, 375, 80 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262)

Dated: August 20, 1981.

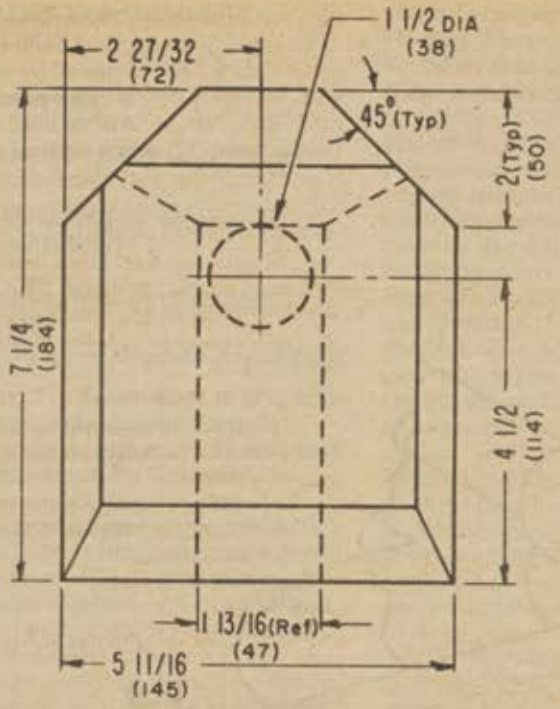
Sadye E. Dunn,

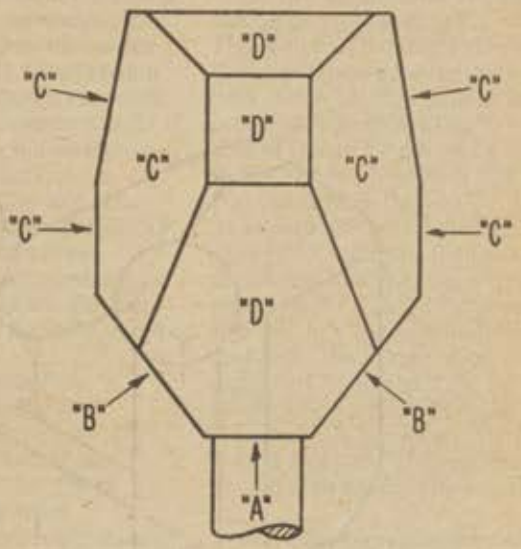
Secretary, Consumer Product Safety Commission.

BILLING CODE 6355-01-M

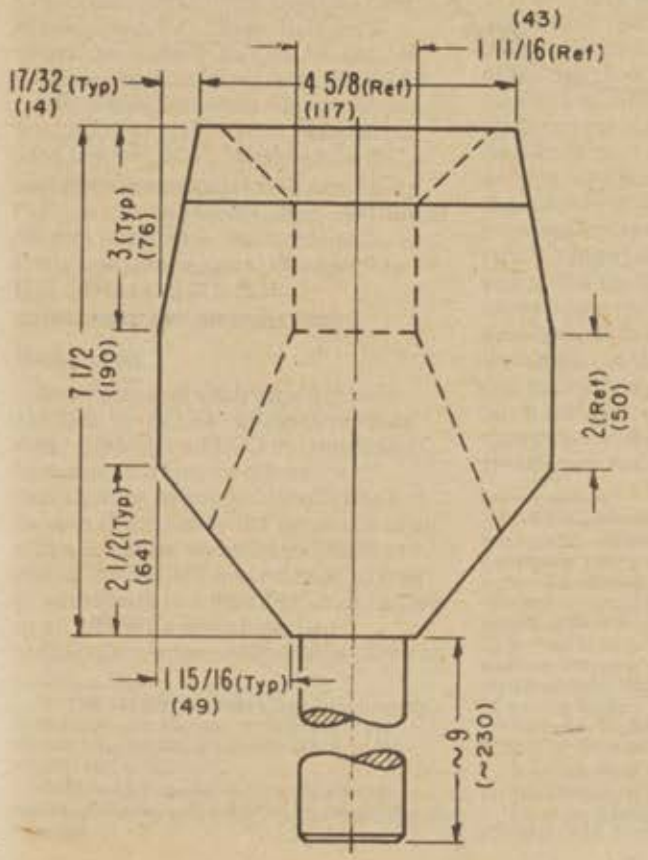
FIG 2—HEADFORM PROBE

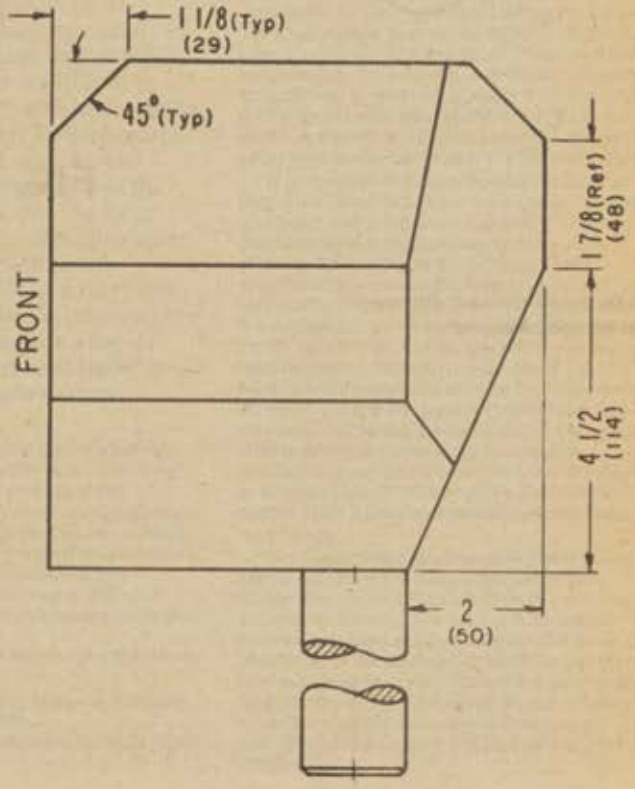
DIMENSIONS ARE SHOWN IN INCHES AND WILL BE USED FOR COMPLIANCE PURPOSES. MILLIMETERS, SHOWN IN PARENTHESIS, ARE FOR CONVENIENCE ONLY.





REAR VIEW—
IDENTIFYING SURFACES





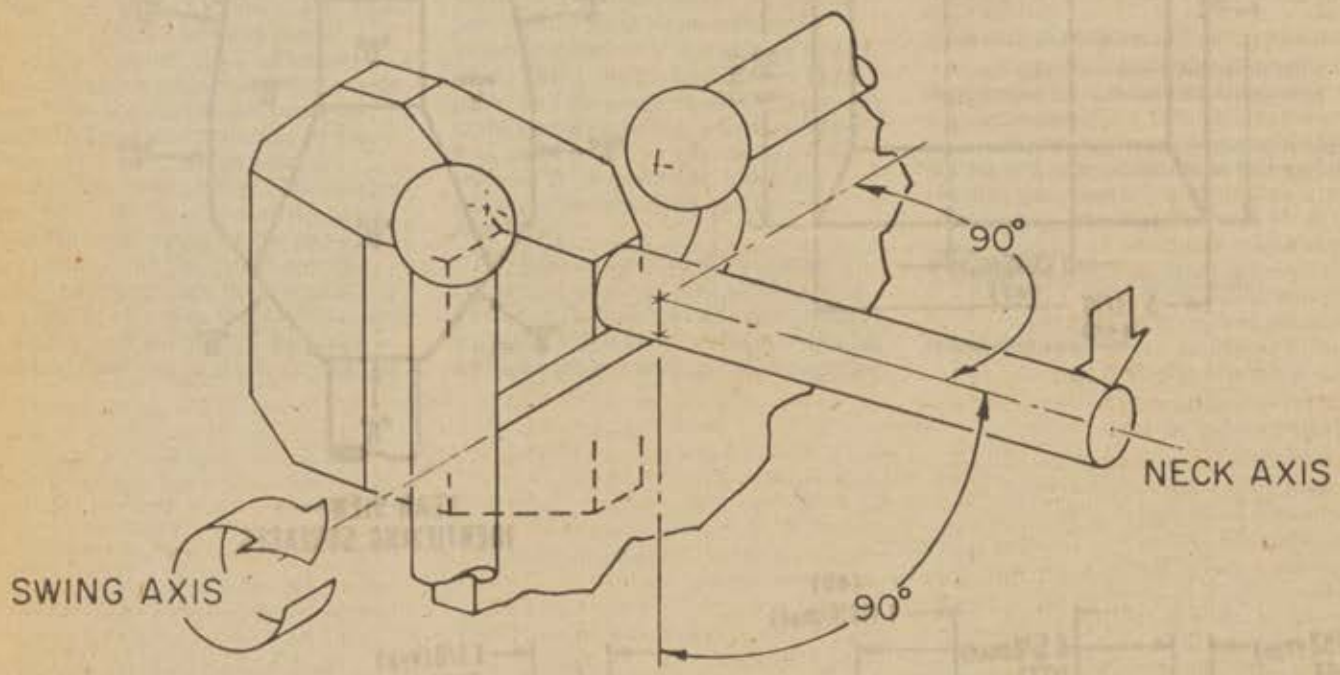


FIG 3

[FR Doc. 81-24800 Filed 8-27-81; 8:45 am]
BILLING CODE 6355-01-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18046; File No. S7-902]

Self-Underwriting by Nonmember Brokers or Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend its rule imposing certain requirements on brokers or dealers that are not members of a registered securities association and that underwrite or otherwise participate in the distribution of their own securities or those of an affiliate. The proposed amendment would create a conditional exception to that rule for nonmember brokers or dealers that limit their business to participation in the offer and sale of securities issued by an affiliate that is not a broker or dealer.

DATE: Comments must be received on or before October 30, 1981.

ADDRESSES: Interested persons should submit three copies of their views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. S7-902. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Colleen Curran Harvey, Esq., Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-2826.

SUPPLEMENTARY INFORMATION:

Background

Securities and Exchange Act Rule 15b10-9, the SECO "self-underwriting" rule,[1] prohibits a SECO broker-dealer from underwriting or otherwise participating in any public offering[2] of its own securities or the securities of an affiliate, unless several conditions are met. If the SECO broker-dealer wishes to participate in a distribution of its own or an affiliate's securities, two independent underwriters must perform several functions in connection with the offering. The price of the issue must not be higher than the price jointly recommended by the two independent underwriters. The independent underwriters must also participate in the preparation of the registration statement and the prospectus, offering circular, or other comparable document, must exercise due diligence with respect to the preparation of those documents, and must assume full legal responsibilities and liabilities of an underwriter under the Securities Act of 1933. Independent legal counsel for the underwriters must review the applicable documents and issue an opinion that the documents conform to the requirements of the federal securities laws. The rule also requires that the broker-dealer issuer or broker-dealer affiliate have been actively engaged in the investment banking or securities business for five years and have shown a profit for three of those years.[3]

Rule 15b10-9 was adopted on December 4, 1972,[4] following the adoption of a comparable rule by the National Association of Securities Dealers, Inc. (the "NASD").[5] These "self-underwriting" rules were promulgated when a number of brokers and dealers first began to raise capital by offering their own securities to the public.

When the Commission proposed to adopt Rule 15b10-9,[6] it stated that two policy objectives had prompted proposal of the rule: first, the avoidance of conflicts of interest that may cause abusive practices by underwriters that distribute their own or an affiliate's securities to the public, and, second, the desirability of arm's length bargaining between underwriters and issuers. Arm's length bargaining between the issuer and the underwriter has been viewed as a method for providing some assurance that the securities are distributed to the public at a fair price and on fair terms, since the underwritier has a self-interest in maintaining its reputation in the investment banking community and among investors.

When the Commission adopted Rule 15b10-9 in 1972, it recognized that it might not be necessary to require that all self-underwritten offerings be conducted in accordance with the terms of the rule. Accordingly, the Commission provided an opportunity for SECO broker-dealers to apply for exemptions on a case-by-case basis. Since adoption of the rule, the Commission has granted thirty-two conditional exemptions and has denied one exemptive request.[7] Thirty-two of the thirty-three exemptive requests received were made by SECO broker-dealers that limited their business to participating in the offer and sale of securities issued by an affiliate that was not a broker-dealer ("Special Purpose Broker-Dealers").[8] As a result of its experience in considering those exemptive requests, the Commission has concluded that the rule presents special problems for Special Purpose Broker-Dealers. In order to eliminate those problems, the Commission today is proposing to amend Rule 15b10-9 to create an exception from the rule's requirements for Special Purpose Broker-Dealers.[9] The proposed amendment essentially codifies the

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[1] 17 CFR 240.15b10-9. Rule 15b10-9 applies only to broker-dealers that are not members of the National Association of Securities Dealers, Inc. ("SECO broker-dealers").

[2] Rule 15b10-9 applies to all public offerings, including secondary distributions and Regulation A offerings.

[3] Additional conditions are imposed when the securities of a non-broker-dealer issuer are being distributed. The issuer must provide in the prospectus, offering circular, or other comparable document financial statements for the immediately preceding three years and a certified balance sheet for the last fiscal year. The issuer must also represent that after the distribution it will send certain periodic financial and operational reports to its security holders.

[4] Securities Exchange Act Release No. 9683 (Dec. 4, 1972), 37 FR 26297 (1972).

[5] NASD By-laws, Article IV, Section 2, Schedule E; NASD Manual (CCH) ¶ 1402.

[6] Securities Exchange Act Release No. 9555 (April 12, 1972), 37 FR 7709 (1972).

[7] Most exemptive requests have involved offerings of debt securities by issuers representing a relatively broad spectrum of companies. They include agricultural cooperative associations, commercial and consumer financing companies, real estate development companies, mortgage banking corporations, oil and gas exploration companies and a computer technology company. Many of those issuers have been established, profitable companies, but newly formed holding companies and small companies making their first offerings have also requested exemptions. The Commission has delegated to the Division of Market Regulation the authority to grant exemptions from Rule 15b10-9 with respect to the participation of a SECO broker-dealer in the offering of debt securities issued by an affiliate of the broker-dealer. 17 CFR 200.30-3(a)(26).

[8] It is apparent that issuers establish Special Purpose Broker-Dealers for several reasons. Some may believe that forming an affiliated broker to distribute their securities may be more cost-effective than engaging the services of an established investment banking firm. In that connection, if employees of an issuer participate in the distribution of the issuer's securities, broker-dealer registration may be required under Section 15(a) of the Securities Exchange Act of 1934 (*See* Secutities Exchange Act Release No. 13195 (January 21, 1977), 42 FR 5084). Cost savings that an issuer may gain by distributing its securities through an affiliated broker-dealer may, however, be substantially reduced or even lost entirely inasmuch as existing Rule 15b10-9 requires a substantial participation by two independent underwriters in the offering.

[9] The Commission has granted some requests for exemptions from the rule by Special Purpose Broker-Dealers for future offerings of securities that are offered and sold in a substantially similar manner and under substanitally similar terms and conditions as the offering for which an exemption has been granted to such Special Purpose Broker-Dealers. These Special Purpose Broker-Dealers would be required to comply with any new provisions of Rule 15b10-9 if such provisions were adopted.

conditions imposed by the Commission in granting exemptive requests of Special Purpose Broker-Dealers.

Discussion of the Proposed Amendment

As noted above, the proposed amendment provides that the provisions of Rule 15b10–9 do not apply to SECO broker-dealers that limit their business to participating in the offer and sale of securities issued by an affiliate that is not a broker-dealer, *i.e.*, Special Purpose Broker-Dealer. The proposed exception is conditional. It would require the Special Purpose Broker-Dealer to deliver to its customers a prospectus, offering circular, or other comparable document that would be required to contain certain facts of significance in a self-underwritten offering. The proposed amendment is intended both to alleviate the problems that Special Purpose Broker-Dealers have encountered in complying with Rule 15b10–9 and to promote the purposes of the rule.

The disclosure document in a self-underwritten offering would be required to set forth in a prominent place certain significant facts. The document would have to disclose: (1) that the Special Purpose Broker-Dealer is an affiliate of the issuer of the securities being offered and that its business is limited to the offer and sale of the nonbroker or dealer affiliate's securities, (2) the amount of commissions or other compensation to be paid to the Special Purpose Broker-Dealer or the formula for determining such compensation, and (3) whether or not persons other than associated persons of the issuer or of the Special Purpose Broker-Dealer [10] participated in determining the price and other terms of the offering and, if so, such persons' names and a brief account of their business experience during the past five years.

The disclosure requirements of the proposed amendment are intended primarily to inform investors of facts that would appear to be pertinent to an investor's understanding of the nature of a self-underwritten offering. By conditioning the exception on disclosure of facts relating to the affiliation of the issuer and the Special Purpose Broker-Dealer and to the commissions or other compensation it will be paid, the amendment would alert investors of the conflicts of interest inherent in that affiliation. The requirement to disclose who participated in the determination of the price and other terms of the offering is also intended to inform investors of facts that appear to be pertinent in the context of a self-underwritten offering. That disclosure requirement would not, however, apply to lawyers and accountants who participated in preparing the prospectus and advising the issuer in the ordinary course of performing legal and accounting services in connection with the offering.

The amendment to Rule 15b10–9 is proposed to be adopted pursuant to the Securities Exchange Act of 1934, and particularly Sections 3, 10, 15 and 23 thereof (15 U.S.C. 78c, 78j, 78*o* and 78w).

Regulatory Flexibility Act Certification

Section 603(a) [11] of the Administrative Procedure Act, [12] as amended by the Regulatory Flexibility Act ("Flexibility Act"),[13] generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on "small entities." [14] Section 605(b) of the Flexibility Act, however, specifically exempts from this requirement any proposed rule, or proposed rule amendment, which, if adopted, would not have a "significant impact on a substantial number of small entities." The amendment to Rule 15b10–9 creates an exception from Rule 15b10–9 which, if adopted, should ease regulatory burdens on certain SECO broker-dealers. Moreover, the disclosure provisions of the proposed amendment merely supplement the information that would otherwise be provided in a prospectus or other disclosure document and the additional information should be readily available to the issuer and the SECO broker-dealer. In general, under the proposed amendment the costs of self-underwriting for SECO broker-dealers, including those broker-dealers that the Commission proposes to define as a "small business" or "small organization" for purposes of the Flexibility Act,[15] should be less than the costs of complying with the requirements of existing Rule 15b10–9. Accordingly, the Chairman of the Commission has certified that the proposed amendment to Rule 15b10–9, if adopted, would not have a significant economic impact on a substantial number of small entities.

Text of Proposed Amendment

The Commission proposes to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding paragraph (c)(3) to § 240.15b10–9 to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.15b10–9 Standards for the underwriting or participation by nonmember broker-dealers in the public distribution of their own or affiliate's securities.

* * * * *

(c) * * *

(3) The provisions of this rule shall not apply to a nonmember broker or dealer that limits its business to participating in the offer and sale of securities issued by an affiliate that is not a broker or dealer: *Provided, however,* That:

(i) The nonmember broker or dealer delivers to its customers a prospectus, offering circular, or other comparable document that discloses in a prominent place: (A) That the nonmember broker or dealer is an affiliate of the issuer of the securities being offered and that its business is limited to the offer and sale of securities issued by a nonbroker or dealer affiliate, (B) The amount of commissions or other compensation to be paid to the nonmember broker or dealer or the formula for determining such compensation, and (C) whether or not persons other than associated persons of the issuer or of the nonmember broker or dealer participated in determining the price and other terms of the offering and such persons' names and a brief account of their business experience during the past five years.

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Solicitation of Comments

All interested persons are invited to submit written views concerning the

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[10] The term "associated person" would include an officer, director, or employee of an issuer or of a SECO broker-dealer (or any person occupying a similar status or performing similar functions), or a person directly or indirectly controlling, controlled by, or under common control with an issuer or a SECO broker-dealer.

[11] 5 U.S.C. 603(a).

[12] 5 U.S.C. 551 *et seq.*

[13] Pub. L. No. 96–354 (September 19, 1980), 94 Stat. 1164, [1980] U.S. Code Cong. & Ad. News 1169.

[14] Although Section 601(b) of the Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has published its proposed definitions in Securities Act Release No. 6302 (March 20, 1981), 46 FR 19251 (March 30, 1981).

[15] A broker-dealer under the Commission's proposed definition of "small business" or "small organization" is one that:

(1) Is permitted to maintain the amount of net capital specified in § 240.15c3–1(a)(2) or (a)(3);

(2) Had less than six partners, officers and employees on the last business day of the preceding calendar year (or in the time that it has been in busines, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section.

Since the Commission is using its proposed, but not yet adopted, definitions of small entities in its evaluation of the proposed amendment to Rule 15b10–9, the Commission seeks comment on whether the use of those proposed definitions are appropriate in this context.

proposed amendment to Rule 15b10–9. Three copies of each written submission should be filed with George A. Fitzsimmons, Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549, not later than October 30, 1981. Reference should be made to File No. S7–902. All submissions will be available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 20, 1981.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to Rule 15b10–9 set forth in Securities Exchange Act Release No. 18046, if promulgated, will not have a significant economic impact on a substantial number of small SECO broker-dealers, and therefore will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are as follows:

The proposed amendment creates an exception from Rule 15b10–9 which currently prohibits SECO broker-dealers from participating in the distribution of their affiliates' securities unless certain conditions are met. Accordingly, the proposed amendment, if adopted, should ease regulatory burdens on certain SECO broker-dealers.

Moreover, the specific requirements contained in the proposed exception should not have a significant economic impact on a substantial number of small SECO broker-dealers. The disclosure provisions merely supplement the information that would otherwise be provided in a prospectus or other disclosure document, and the additional information should be readily available to the issuer and the SECO broker-dealer. In general, under the proposed amendment the costs of self-underwriting for SECO broker-dealers should be less than the costs of complying with the requirements of existing Rule 15b10–9.

Dated: August 21, 1981.

John S. R. Shad,

Chairman.

[FR Doc. 81-25158 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 240

[Release No. 34–18050; File No. S7–903]

Short Tendering of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed rule; revised proposed rulemaking.

SUMMARY: The Commission is withdrawing its previous proposal and is requesting comment on two alternative proposals. The first would amend the short tendering rule under the Securities Exchange Act of 1934 to impose additional ownership requirements for persons tendering securities in response to tender offers for those securities, to clarify the provisions of the rule, and to limit the type of offers to which the rule applies. The second alternative would deregulate short tendering entirely.

DATE: Comments should be submitted on or before November 15, 1981.

ADDRESSES: Interested persons should submit three copies of their written data, views and arguments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, and should refer to File No. S7–903. All submissions will be available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mark Beatty, Esq. (202–272–2829), Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for comment amendments to Rule 10b–4 [§ 240.10b–4] under Section 10(b) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78j(b) (1976), and, as an alternative, is soliciting comment on the possible deregulation of short tendering. Rule 10b–4 (the "Rule") was adopted by the Commission in 1968[1] for the purpose of prohibiting "short tendering," *i.e.*, tendering more shares than a person owns in order to avoid or reduce the risk of *pro rata* acceptance in tender offers for less than all the outstanding securities of a class or series. The Commission previously published for comment proposed amendments to Rule 10b–4 in 1977.[2] Those proposed amendments are hereby withdrawn and superseded by the amendments proposed today.

I. Background

In making a tender offer for securities of the corporation that is the subject of the offer, the offeror usually offers as consideration either cash, its own securities, or a combination of both. Tender offers can be for all the outstanding securities of the subject company or for a lesser amount.

Offers for less than all of the outstanding shares involve a risk to the securityholder of the subject company that not all of the securities that the securityholder tenders will be accepted.[3] Before the adoption of Rule 10b–4, certain securityholders tendered more securities than they owned in order to diminish this risk.[4] This conduct was a prudent and natural response to the risk of prorationing, but as a practical matter it was available only to those who were able to secure guarantees of tender, for the most part market professionals, since the shares not owned could not be physically tendered.

In testimony before the Subcommittee on Securities of the Senate Banking and Currency Committee in 1967 on the legislation that became the Williams Act, the Commission expressed concern that short tendering represents an abuse of the tender process by market professionals and certain customers. In particular, the Commission noted that, by tendering a greater number of securities than they owned, and by guaranteeing their own tenders, market professionals were able to secure acceptance of a disproportionately larger number of the securities owned and tendered by them than could be secured by other persons who tendered only securities they owned.[5] The Senate Banking and Currency Committee agreed with that concern but concluded that the Commission has "adequate power to deal with the abuse of short tendering under the antifraud provisions of the Securities Exchange Act."[6]

Thereafter, pursuant to Section 10(b) of the Act, the Commission published proposed Rule 10b–4 for comment[7] and, after reviewing the comments received,

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[1] Securities Exchange Act Release No. 8321 (May 28, 1968), 33 FR 8269 (1968).

[2] Securities Exchange Act Release No. 14157 (November 9, 1977), 42 FR 59280 (1977).

[3] When tendered securities are accepted on a *pro rata* basis, the offeror accepts only a percentage of the securities tendered by each securityholder. The percentage is calculated from a fraction whose numerator represents the total number of securities accepted and whose denominator represents the total number of securities tendered.

[4] This practice did not eliminate risk, since the securityholder's estimate of the *pro rata* percentage could be substantially incorrect. Furthermore, the securityholder ran the risk that the bidder would decide to accept more shares than it was expected to, in which case the securityholder would have to deliver to the bidder shares acquired at market prices that reflected the bidder's decision to accept additional shares.

[5] *See* Testimony of Chairman Manuel F. Cohen in Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. 198–199 (1967).

[6] S. Rep. No. 550, 90th Cong., 1st Sess. 5 (1967).

[7] Securities Exchange Act Release No. 8224 (January 3, 1968), 33 FR 513 (1968).

adopted Rule 10b–4 in May 1968[8] for the specific purpose of prohibiting short tendering. Rule 10b–4 makes it a "manipulative or deceptive device or contrivance," as used in section 10(b) of the Act, for any person, in response to a tender offer for or a request or invitation for tenders of any security, to tender securities that he does not own. The Rule applies to all tender offers whether made by a third party or by the issuer of the securities sought.[9] Paragraph (a) of Rule 10b–4 prohibits any person from tendering a security or causing it to be tendered on his behalf, directly or indirectly, by means of a guarantee unless he owns that security. Ownership is defined in paragraph (b) of the Rule.

II. Deficiencies in the Rule

By prohibiting short tendering, Rule 10b–4 was designed to promote equality of opportunity and risk for all tendering securityholders. For some time, however, the Commission has been aware that certain trading practices involving sales of subject securities in connection with tendering can be used to achieve a result similar to the one afforded by short tendering.

The practice known as "hedged tendering" consists of tendering and immediately selling the subject securities. For example, assume there is a tender offer for less than all the outstanding securities of the target and that A and B each own 200 shares of the subject security and expect that the offeror will accept on a *pro rata* basis 50% of the securities tendered. If A tenders his 200 shares, and then sells 100 shares, he will (assuming the 50% expectation proves correct) have 100 shares accepted by the offeror, or 100% of the securities that he owns at the time the *pro rata* acceptance period ends. In contrast, if B simply tenders his 200 shares and does not engage in any hedging (possibly because he cannot borrow the subject security), he will have only 100 of his shares accepted and 100 shares will be returned unaccepted to him. In effect, A has hedged the possibility of *pro rata* acceptance through hedged tendering while B has not. If A's 50% assumption is incorrect and a greater number of his shares are accepted, he will have to cover his short position, perhaps at a loss.

It seems anomalous that A, who would have engaged in a prohibited short tender if he had sold the 100 shares immediately before tendering 200 shares, can accomplish precisely the same result under the current Rule by waiting to sell the 100 shares until a moment after tendering.[10] Furthermore, the 100 shares A tendered and then sold may be bought by an arbitrageur or other purchaser who will tender the same shares to the bidder and thereby increase the likelihood or degree or prorationing. If that occurred, it would reduce the number of tendered securities that would be accepted from other securityholders.

In order to address hedged tendering and certain indirect forms of short tendering, in 1977 the Commission proposed amendments to Rule 10b–4 (the "1977 Proposal").[11] In the proposing release, the Commission stated that "[s]hort sales of securities sought in a tender offer * * *, loans of subject securities for purposes of facilitating such short sales and guarantees of delivery, in combination, can frustrate achievement of the Rule's objectives."[12]

The 1977 Proposal would have prohibited persons from tendering subject securities unless they owned the securities tendered or an equivalent security[13] from the time of tendering until the last date tenders could be made pursuant to the offer (or until the tender was rejected or withdrawn). The definition of ownership would have been altered by abandoning the concept of title and of ownership based upon contracts to purchase currently embodied in Rule 10b–4(b)(2) and substituting "possession and control" as a required element of ownership. Those persons guaranteeing tenders would have been required to have possession and control of the securities underlying the "guarantee." Furthermore, the 1977 Proposal would have prohibited short sales of a subject security unless delivery was made to the pursuant to the offer.[14]

The Commission received twenty letters of comment in response to the 1977 Proposal.[15] The commentators were generally opposed to the "possession and control" concept because in their view it would foster simultaneous "cash" and "regular-way" markets for subject securities during the last five trading days of the tender offer period. The "cash" market (in which securities are traded for same- or next-day settlement) would reflect the tender offer price while the regular-way market (in which securities are traded on a five-day settlement basis) would reflect prices expected to prevail after the tender offer, since purchasers would be unable to obtain "possession and control" in order to tender. Some commentators argued that the proposed restrictions would make the guarantee process unavailable to those who need it most, *i.e.*, securityholders who desire to tender but who lack immediate access to their certificates. Finally, several commentators objected to the "net long maintenance" requirement because it would adversely affect arbitrage activities during tender offers, particularly the practice of hedged tendering. Since the amendments to Rule 10b–4 proposed in this Release would prohibit hedged tendering, the comments received on hedged tendering in response to the 1977 Proposal will be discussed in further detail below.

After consideration of these major objections and several of the specific points raised concerning other provisions of the 1977 Proposal, including their burden upon market participants, the Commission has determined to withdraw the 1977 Proposal. It is doing so since it appears that the proposal would have had more substantial effects than necessary on the trading environment and on the procedures that have been developed to meet the needs of the marketplace during tender offers.

The Commission believes that it is confronted with two alternatives: (i) it should amend Rule 10b–4 to prohibit the hedged tendering practice described above, or (ii) it should abandon the effort to regulate short tendering. In this regard, the Commission is today soliciting comment on these two alternatives. The first involves revised amendments to Rule 10b–4 ("Proposed Amendments") that are designed to give effect to the original purpose and intent of Rule 10b–4 without interfering unduly with tendering practices and trading

[8] *See* note 1 *supra*. Rule 10b–4 was adopted on May 28, 1968, two months before the passage of the Williams Act of July 29, 1968.

[9] Although tender offers by an issuer are exempt from the provisions of Section 14(d), they are subject to the antifraud provisions of Section 14(e) of the Act. In addition, issuer offers are subject to Rule 13e–4, which was adopted in 1979. Securities Exchange Act Release No. 16112 (August 19, 1979), 44 FR 49406 (1979).

[10] In two "no-action" letters, *DuPont Glore Forgan* (June 25, 1973), [1973 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶79,479 (1973), and *Fred Kobler* (June 25, 1973), the staff stated that under certain circumstances a person effecting post-tender sales "may be engaged in a course of conduct in contravention of the purpose of Rule 10b–4."

[11] *See* note 2, *supra*.

[12] 42 FR 59281.

[13] The 1977 Proposal would have defined an equivalent security as an option, warrant, or convertible security.

[14] For the complete text of the 1977 Proposal, see Securities Exchange Act Release No. 14157, *supra* note 2.

[15] *See* File No. S7–728, available at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

markets for subject securities. The second alternative would involve substantial modifications of the existing regulatory approach and deregulation of the short tendering practice. The following section of this release summarizes the Proposed Amendments to Rule 10b–4. The possible deregulation is discussed in Part IV below.

III. First Alternative: Strengthening Existing Rule

A. Summary of Proposed Amendments

The Proposed Amendments are designed to resolve certain issues that have arisen under the current Rule 10b–4 since its adoption in 1968. The major substantive change from the current Rule would be the additional requirement that all tendering securityholders be "net long" the amount of securities tendered at the end of the *pro rata* acceptance period, or on the last day securities may be tendered in order to be accepted by lot where that method of acceptance is used.[16] The significant changes are discussed below.

Paragraph (a)(1) would set forth the definition of ownership, which is essentially unchanged from current Rule 10b–4(2)(b), except for a revision to reflect the use of "equivalent security" as a defined term in paragraph (a)(2). The ownership definition has been refined to provide that a person who otherwise could tender securities will be deemed not to own the securities, and thus will be prohibited from tendering them, if he has entered into any arrangement or agreement (other than stock loans or the writing of exchange-traded call options) whereby another person can tender those securities under the Rule. Thus, for example, a person who has title to subject securities would not be permitted to tender them if he has (i) entered into an unconditional contract to sell them or (ii) written an over-the-counter call option on them and provided the holder with the reasonable belief required by paragraph (a)(2) of the Rule.

Paragraph (a)(2) would define equivalent security to include (1) options, warrants, and rights issued by the person whose securities are the subject of the offer and (2) any other option to acquire the subject security, but only if the holder reasonably believes that the maker or writer of the option has title to and possession of the subject security and upon exercise will promptly deliver the subject security. This language tracks in all significant respects the proviso in current Rule 10b–4(a)(1). An option traded on a national securities exchange would not be included within the definition of equivalent security since the holder of such an option cannot know that the maker or writer of the option has "title to and possession of" the underlying security within the meaning of the Rule. Since an unlimited number of options can be written on an uncovered basis, it seems appropriate that Rule 10b–4 should not permit listed option holders to tender unless they have exercised those options. The exclusion of options that are traded on a national securities exchange from the definition of equivalent securities represents a codification of prior staff interpretations of Rule 10b–4.

The term "partial offer," to which the substantive provisions of the amended Rule would be limited, is defined in paragraph (a)(3). A partial offer would include any tender offer for or request or invitation for tenders in which (i) the person making the offer seeks than the total amount of outstanding securities of a particular class of series [17] and (ii) securities are accepted either by lot or on a *pro rata* basis for a specified period.[18] Paragraph (a)(3) would narrow the coverage of current Rule 10b–4 by excluding tender offers for 100% of the outstanding securities of a class or series and those offers for less than 100% of the outstanding securities of a class or series where acceptance of tenders is primarily on a "lowest price first" or other basis not involving *pro rata* acceptance. Thus, the amended Rule would not apply to most tender offers for municipal and corporate debt securities.

Several commentators on the 1977 Proposal pointed out that the short tendering restrictions need not apply to offers where there is no incentive to engage in short tendering. The Commission seeks comment on whether limiting Rule 10b–4 to partial tender offers would deny tendering securityholders the protections of the Rule, or would produce any other undersirable corollary effects on the market or on tender offerors.

The term "tender" would be defined in paragraph (a)(5) to encompass all methods by which a person can affirmatively respond to a request or invitation for tenders. Current Rule 10b–4 (a)(1) refers to tendering for a person's own account; paragraph (a)(2) refers to tenders or guarantees on behalf of others. It has thus been possible to read Rule 10b–4 as prohibiting guarantees of delivery for a person's own account, although it is the Commission's understanding that market professionals routinely have employed so-called "self-guarantees" as a method of tendering securities purchased but not yet received. The definition of "tender" in paragraph (a)(5) would specifically include "guarantees" and thus eliminate any implication in the current Rule that self-guarantees are improper.[19]

Paragraph (b) of the amended Rule would contain the substantive provisions of the Rule and would cover acts by "any person acting alone or in concert with others, directly or indirectly." The phrase "directly or indirectly," together with the "in concert" language, is intended to make it clear that persons may not do indirectly what they may not do directly, and thereby to emphasize that indirect forms of short tendering are prohibited. This does not, however, effect a substantive change in the Rule, in view of the provisions of Section 20(b) of the Act.[20]

Paragraph (b)(1) incorporates the ownership provisions of current Rule 10b–4(a)(1), considerably abbreviated through the use of defined terms. In addition, as explained in the next section of this Release, paragraph (b)(1) would make it unlawful for any person to tender any security unless he owned the securities tendered both at the time of tender and at the end of the *pro rata* acceptance period. Security holders who tendered and did not thereafter sell the securities would be unaffected by this amendment. A securityholder who had tendered the subject security, and thereafter during the *pro rata* period sold all or a portion of the subject

[16] As used hereinafter, the *pro rata* acceptance period is the time during which acceptance of securities is made on a *pro rata* basis or by lot, including any extensions thereof, whether or not such period is required by statute or rule.

[17] The staff would propose to interpret the term "partial offer" to include an offer for all of the outstanding securities where the bidder is offering a different consideration for a specified number of the outstanding securities than it is offering for the remaining outstanding securities.

[18] The words "specified period" in paragraph (a)(3) are intended to make clear that incidental prorationing would not bring an offer within the coverage of the Rule. Such incidental prorationing might occur, for example, when some, but not all, securities at the highest acceptable price were accepted in an offer conducted on a "lowest price first" basis.

[19] If broker-dealers were unable to utilize self-guarantees, they could not tender securities purchased "regular-way" in the last five days of a partial offer, unless they secured the guarantee of another broker-dealer. There would not appear to be any regulatory rationale for imposing such a requirement.

[20] Section 20(b) of the Act [15 U.S.C. 78t(b)] makes it unlawful for "any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of [the Act] or any rule or regulation thereunder through or by means of any other person."

securities that comprised his net long position, would be required either to repurchase sufficient shares, or to withdraw shares from his tender, in order to comply with the net long proviso before the end of the *pro rata* acceptance period. The "end of the *pro rata* acceptance period" would be the time after which securities would not be accepted by the bidder on a *pro rata* basis, or any extension thereof, whether or not the period was required by statute or rule.[21] Sales of subject securities occurring after the *pro rata* acceptance period (whether or not it is shorter than the duration of the offer) would not be prohibited since they do not affect the *pro rata* calculation.

In the case of a tender based upon ownership of an equivalent security, the amended Rule would clarify the intent of a current Rule that equivalent securities need be converted, exchanged, or exercised only to the extent required by the bidder's terms of acceptance.

Paragraph (b)(2), which covers guarantees of tender, would be largely comparable to current Rule 10b–4(a)(2), again simplified through the use of defined terms. The current standard of inquiry imposed upon guarantors by Rule 10b–4 would remain unchanged. A guarantor would have to have "a reasonable belief that, upon information furnished by the person on whose behalf the tender is made," the person could tender in accordance with the provisions of the Rule.

Paragraph (b)(3) would prohibit a tendering securityholder from tendering the same securities to more than one partial offer at the same time, *i.e.*, multiple tendering. This provision codifies the staff's interpretation of current Rule 10b–4, and is intended to avoid the confusion and possible deception to the market and to bidders that could otherwise arise, as well as the potential unfairness to certain securityholders for whom this practice may not be available. The Commission recognizes, however, that there may be persuasive arguments for permitting multiple tendering. In particular, multiple tendering enables security-holders to maintain maximum flexibility during competing tender offers. The Commission seeks comment on whether or not multiple tendering should be prohibited under Rule 10b–4 and, if so, whether the prohibition should extend to all tender offers rather than just partial offers.

Paragraph (c) would provide a mechanism for obtaining exemptive relief to the extent that there may be factual situations that would justify the granting of an exemption upon a proper application.

B. Post-Tender Sales of Subject Securities

Sales of a security after it has been tnedered in a partial tender offer are an important adjunct to risk arbitrage. Risk arbitrage involves the purchase of subject company securities during a tender offer for the purpose of tendering, and profiting by the difference between the arbitrageur's purchase price and the tender price. Arbitrageurs are at risk since the tender offer may be unsuccessful or, even if it is successful, the tender offeror may accept fewer than all shares tendered. In the latter case, securities returned because of over-subscription frequently cannot be sold except at prices substantially below the arbitrageur's cost. Consequently, risk arbitrageurs frequently sell, after tendering, the amount of securities expected to be returned unaccepted in the offer.

Hedged tendering reduces risk to the extent that it reduces the number of returned, unaccepted securities that will have to be sold after the expiration of the tender offer. Through this technique, market professionals are able to increase the proportion of the securities owned by them at the expiration of the *pro rata* acceptance period that are accepted by the bidder. Hedged tendering does not, however, eliminate the risk of loss. Losses may be expected to occur if the bidder decides to accept a greater number of shares or if the arbitrageur's estimate of the *pro rata* acceptance rate is substantially incorrect. At the same time, however, the reduction in the arbitrageur's risk is accomplished by shifting the risk of prorationing to public investors who tender their securities but do not engage in hedged tendering. As discussed below, this result is similar to the practice of short tendering that the Commission and the Congress condemned in 1968 and is at odds with the original purpose and intent of Rule 10b–4.

Several commentators on the 1977 Proposal argued that hedged tendering should not be curtailed because it enables securityholders to transfer the risk of partial acceptance or of an unsuccessful offer while realizing a price that more closely approximates the tender offer price since arbitrageurs, having reduced their risk of loss, are willing to bid higher for securities than they would in the absence of this risklimiting technique. In turn, this predicted reduction in the spread between the market price and the tender offer price would enable individual securityholders to sell into the market at a known price and to realize immediate cash rather than to risk the uncertain outcome of tendering. Because the Commission is aware that there are legitimate arguments in favor of allowing hedged tendering and that most of these arguments also apply to short tendering, the Commission plans to consider the deregulation of this area.[22]

At the same time, however, the Commission's proposal to prohibit hedged tendering as described above presumably would benefit securityholders who elect to tender their securities instead of selling them in the market. Indeed, tendering may be made relatively more attractive than selling to the extent that such a prohibition on hedged tendering results in (i) a reduction in the market price that would be obtained by selling and (ii) an increase in the likelihood that tendered shares would be accepted.

It would appear to make little sense to continue prohibiting short tendering while allowing hedged tendering during the *pro rata* period. As noted above, the use of either technique affords market professionals an advantage that is not generally available to the public. While theoretically every securityholder can engage in a hedged tender, the Commission understands that, as a practical matter, many public securityholders may be unable to sell after tendering, *i.e.*, hedge their tenders, because of the difficulty of borrowing stock during partial offers.[23]

In order to address the practice of hedged tendering, the Commission is proposing for comment amendments to Rule 10b–4 to require that persons who tender own the securities when tendered and at the end of the *pro rata* acceptance period. This would, in effect, require that any subject securities tendered and sold following their tender be repurchased before the *pro rata* acceptance period expires. Applying the ownership requirement to the end of the *pro rata* acceptance period may assure

[21] Rule 13e–4(f)(3) [§ 240.13e–4(f)(3)] and Section 14(d)(6) of the Act [15 U.S.C. 78n(d)(6)] require that offers subject thereto provide that acceptance of securities by the bidder shall be on a *pro rata* basis for at least ten business days or ten calendar days, respectively. *Cf.* Rule 13e–4(f)(3) and Rule 14d–8 [§ 240.14d–8], which permit the offeror to extend the *pro rata* acceptance period beyond that required by rule or statute.

[22] See Section IV *infra*.

[23] If options on a subject security are traded on an exchange, it may be possible to decrease the risk of a *pro rata* acceptance through option transactions. The Proposed Amendments have not been designed to have any effect on such transactions, in part, because they are equally available to all market participants.

that the *pro rata* determination fairly and accurately reflects actual ownership of tendered securities at that time. Although the proposed rule would not prohibit sales of subject securities following their tender but before the *pro rata* acceptance period expires, it would have the effect of eliminating the current practice of hedging tenders during the *pro rata* period since tendering persons would be required, at the end of the *pro rata* acceptance period, to own the amount of subject securities tendered. In other words, any such "hedged" tender would have to be "unhedged" before the *pro rata* calculation became fixed.[24]

The Commission seeks detailed comment both on the benefits of the proposal to public securityholders and on the potential impact of the proposal on arbitrageurs and selling securityholders. In particular, the Commission seeks further comment on the proposition that some commentators on the 1977 Proposal advanced, to the effect that hedged tendering is not an essential element of arbitrage in partial offers and that, if it were to be eliminated, arbitrageurs would be able to continue to provide liquidity and an alternative to securityholders seeking to sell in order to avoid risk.

The Commission understands that specialists and market makers might be called upon, by their affirmative obligation or by the normal demands placed on their market making activity, to sell subject securities from time to time after they have tendered securities, in a partial tender offer. It would appear, however, that, by waiting to tender securities owned by them until the latest possible time before the *pro rata* acceptance period ends, specialists and market makers could obtain *pro rata* acceptance of their securities but not be called upon to sell subject securities between the time of tendering and the expiration of the *pro rata* acceptance period. The Commission wishes to receive comment on whether the Proposed Amendments strike an appropriate balance in addressing the harmful effects of the hedged tendering practice without unduly burdening market professionals or the markets themselves. In that regard, the Commission solicits specific comments on the effects that the Proposed Amendments would have on particular categories of market professionals, including specialists, market makers, and block positioners.

[24] The 1977 Proposal would have required that tendering persons own tendered securities throughout the duration of the offer.

IV. Second Alternative: Deregulation of Short Tendering

Rule 10b–4 has effectively prohibited short tendering *per se*, and, if the amendments proposed today were adopted, the Rule would prohibit the analogous practice of hedging tenders during the *pro rata* period. In large measure, the Commission's decision to publish those proposals reflects a judgment that the existing Rule does not work as intended and that the purpose behind the Rule cannot be achieved unless it is amended to impose further restrictions of the king proposed. At the same time, however, the Commission is aware that those additional restrictions would constitute an additional burden of regulation on securities professionals and others. For this reason, and in view of the possibility that those additional burdens are unwarranted, the Commission wishes to consider whether the short tendering area is instead an appropriate subject for complete or partial deregulation.

In addition, an argument can be made that short tendering by market professionals, like hedged tendering, operates to the advantage of individual securityholders who elect to sell in the market. To the extent that market professionals are able to control their exposure to the risk of proration, the market price of the subject security should more closely approximate the tender offer price that would otherwise be the case. This reduction in the spread, in turn, enables individual securityholders to sell into the market at a higher price than would otherwise be available to them, and, correspondingly, to obtain immediate cash for their shares and thus eliminate any exposure to the risk of prorationing.

In considering the possibility of deregulation, the Commission is nevertheless mindful of the need to fulfill the important investor protection goals of the Williams Act. In that regard, the Commission requests comment on whether it would be possible to deregulate short tendering in a fashion that would be consistent with those legislative purposes.[25]

The Commission also requests comment on the likely effects a complete deregulation of short tendering would have on (i) public and professional securityholders; (ii) tender offerors, including their decision to commence a partial offer, the premium offered and the likely success of the offer; (iii) the market for subject securities during and after a tender offer;[26] and (iv) the procedures that have been developed to facilitate tender offers. In assessing the impact of either further regulation or the prospect of deregulation, the Commission requests comment on the extent to which, as a practical matter, retail investors and other public securityholders would be able to borrow securities or obtain guarantees in order to engage in short or hedged tendering, and any benefits that might accrue to such securityholders. In that regard, commentators should consider whether any such benefits would mitigate or eliminate the potential adverse effects of the application of *pro rata* acceptance to the additional amount of shares that would be tendered if short tendering were permitted. Commentators may wish to consider, moreover, whether the Commission might devise conditional exemptive provisions, under Section 14(d)(8) or otherwise, that might offer incentives for bidders to provide protection for tendering shareholders that could obviate the need for Rule 10b–4 or for the amendments today proposed.

[25] *See* notes 5 and 6 *supra* and accompanying text. By requiring *pro rata* acceptance during the first ten days of an offer, *see* Section 14(d)(6), the Congress provided a mechanism that promotes equal treatment for tendering securityholders and the Commission has extended this protection to securityholders subject to tender offers by issuers, *see* Rule 13e–4(f)(3). To some degree, a ban on short tendering further contributes to that overall goal.

V. Regulatory Flexibility Act Certification

Section 603(a) [27] of the Administrative Procedure Act ("APA"),[28] as amended by the Regulatory Flexibility Act ("Flexibility Act"),[29] generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on "small entities."[30] Section 605(b) of the Flexibility Act, however, specifically exempts from this requirement any proposed rule, or proposed rule amendment, which, if

[26] In the past, certain commentators have stated that permitting short tendering would raise the price at which arbitrageurs are willing to purchase shares from those shareholders who wish to avoid the risk of *pro rata* acceptance by selling into the market rather than tendering. Additional comment on this point is requested, since it would appear that arbitrageurs need not purchase subject securities during the tender offer period in order to effect a short tender.

[27] 5 U.S.C. 603(a).

[28] 5 U.S.C. 551 *et seq.*

[29] Pub. L. No. 96–354 (September 19, 1980), 94 Stat. 1164, [1980] U.S. Code Cong. & Ad. News 1169.

[30] Although Section 601(b) of the Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has published its proposed definitions in Securities Act Release No. 6302 (March 20, 1981), 46 FR 19251 (March 30, 1981).

adopted, would not "have a significant economic impact on a substantial number of small entities." The Proposed Amendments only prohibit certain conduct and do not impose any record-keeping, data collection or reporting requirements on entities subject to the Rule. In addition, small entities other than broker-dealers are unlikely to engage in the conduct to be prohibited, and those broker-dealers that the Commission proposes to define as a "small business" or "small organization" for purposes of the Flexibility Act [31] are already prohibited by another Commission rule from engaging in the conduct.[32] Accordingly, the Chairman of the Commission has certified that the Proposed Amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.

VI. Statutory Basis

The proposed amendments to Rule 10b–4 would be promulgated under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 3(b), 10(a), 10(b), 14(e), 15(b) and 23(a) of the Act [15 U.S.C. 78c(b), 78j(a), 78j(b), 78n(e), 78*o*(b) and 78w(a)].

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by revising § 240.10b–4 to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.10b–4 Short tendering of securities.

(a) *Definitions.* For purposes of this section: (1) A person shall be deemed to own a subject security or an equivalent security if neither he nor his agent has entered into an arrangement or agreement (other than one for the lending of securities or the writing of a call option that is traded on a national securities exchange) whereby any other person may tender that security or be deemed to own it and (i) he or his agent has title to it; or (ii) he has purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase it but has not yet received it; or (iii) he has an option that is traded on a national securities exchange to purchase it and has exercised that option; or (iv) in the case of a subject security he has converted, exchanged, or exercised an equivalent security that he owned (within the meaning of paragraph (a)(1) (i) or (ii) of this section). For the purpose of determining ownership as of the end of the *pro rata* acceptance period, securities that have been tendered and not withdrawn are deemed to be owned as of the end of the *pro rata* acceptance period. *Provided, however,* That a person shall be deemed to own a security for purposes of this rule only to the extent that he has a net long position in such security.

(2) The term "equivalent security" means (i) any security (including any option, warrant, or other right to purchase the subject security), issued by the person whose securities are the subject of the offer, that is immediately convertible into, or exchangeable or exercisable for, a subject security; or (ii) any other right or option (other than an option that is traded on a national securities exchange) that entitles the holder thereof to acquire a subject security, but only if the holder thereof reasonably believes that the maker or writer of the right or option has title to and possession of the subject security and upon exercise will promptly deliver the subject security.

(3) The term "partial offer" means any tender offer for, or request or invitation for tenders of, any security in which

(i) The bidder offers to purchase less than the total amount of securities outstanding of a particular class or series and

(ii) Tenders are accepted either by lot or on a *pro rata* basis for a specified period.

(4) The term "subject security" means a security that is the subject of any tender offer or request or invitation for tenders.

(5) For purposes of this rule, a person shall be deemed to "tender" a security if he (i) delivers a subject security pursuant to an offer, (ii) causes such delivery to be made, (iii) guarantees delivery of a subject security pursuant to a tender offer, (iv) causes a guarantee of such delivery to be given by another person, or (v) uses any other method by which acceptance of a tender offer may be made.

(b) It shall constitute a "manipulative or deceptive device or contrivance" and a "fraudulent, deceptive, or manipulative act or practice" as those terms are used in sections 10(b) and 14(e) of the Act, respectively, for any person acting alone or in concert with others, directly or indirectly, to tender any subject security in a partial offer:

(1) For his own account unless at the time of tender, and at the end of the *pro rata* acceptance period or period during which securities are accepted by lot (including any extensions thereof), he owns (i) the subject security and will deliver or cause to be delivered such security for the purpose of tender to the person making the offer within the period specified in the offer, or (ii) an equivalent security and, upon the acceptance of his tender, will acquire the subject security by conversion, exchange, or exercise of such equivalent security to the extent of such acceptance and, within the period specified in the offer, will deliver or cause to be delivered the subject security so acquired for the purpose of tender to the person making the offer; or

(2) For the account of another person unless the person making the tender (i) possesses the subject security or an equivalent security, or (ii) has a reasonable belief that, upon information furnished by the person on whose behalf the tender is made, such person owns the subject security or an equivalent security and will promptly deliver the subject security or such equivalent security for the purpose of tender to the person making the tender.

(3) If the same security has been tendered in response to any other partial offer, unless he has first withdrawn the other tender.

(c) This rule shall not prohibit any transaction or transactions if the Commission, upon written request or upon its own motion, exempts such transaction or transactions, either unconditionally or on specified terms and conditions, as not constituting a manipulative or deceptive device or contrivance or a fraudulent, deceptive, or manipulative act or practice comprehended within the purpose of this rule.

VII. Solicitation of Comments

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should submit three copies thereof to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than November 15, 1981. Reference should be made to File No. S7–903. All submissions will be made

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[31] A broker-dealer under the Commission's proposed definition of "small business" or "small organization" is one that:

(1) Is permitted to maintain the amount of net capital specified in § 240.15c3–1(a)(2) or (a)(3);

(2) Had less than six partners, officers and employees on the last business day of the preceding calendar year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section.

Id.

[32] Since the Commission is using its proposed, but not yet adopted, definitions of small entities in its evaluation of the Proposed Amendments to Rule 10b–4, the Commission seeks comment on whether the use of those proposed definitions is appropriate in this context.

available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 21, 1981.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to Rule 10b-4 set forth in Securities Exchange Act Release No. 34-18050, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are that the proposed amendments, if adopted, would prohibit fraudulent conduct and would not impose any reporting, data collection or record-keeping requirements. In addition, small entities other than broker-dealers are unlikely to engage in the conduct to be prohibited, and those broker-dealers that the Commission proposes to define as a "small business" or "small organization" for purposes of the Regulatory Flexibility Act are already prohibited by another Commission rule from engaging in the conduct.

Dated: August 21, 1981.

John S. R. Shad,

Chairman.

[FR Doc. 81-25139 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 81N-0219]

Inhalation Anesthetic Drug Products; Proposed Revocation of Requirements for Studies of Carcinogenic and Teratogenic Potential

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revoke the regulation that requires manufacturers to conduct studies in animals of certain inhalation anesthetic drug products to determine the potential of these drug products to cause cancer and birth defects. The proposal is based on new information that has become available since the final regulation was published. The information provides sufficient evidence that the required studies are not necessary.

DATE: Written comments by October 27, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Adminstration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert J. Weil, Bureau of Drugs (HFD-30) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 22, 1977 (42 FR 37538), FDA issued § 310.511 (21 CFR 310.511), which established certain requirements for inhalation anesthetic drug products. The section requires the holders of new drug applications (NDA's) and abbreviated new drug applications (ANDA's) for halogenated inhalation anesthetic drug products to conduct animal studies on the potential of their drug products to cause cancer and to affect reproduction, including any potential for causing birth defects. The NDA and ANDA holders were required to submit reports on these studies to FDA to be used to determine whether the labeling of the products should be revised to provide for safer use of the drug products or whether approval of the applications for the products should be withdrawn.

The final regulation became effective on August 22, 1977. The holders of approved NDA's and ANDA's for drug products subject to the regulation where required to submit preliminary study protocols by September 20, 1977, and to submit final protocols by February 17, 1978. Preliminary protocols for the studies were discussed at a workshop held by FDA on December 5 and 6, 1977. In the Federal Register of March 14, 1978 (43 FR 10553), the date for submission of final protocols was extended to September 1, 1978. On August 29, 1978, FDA sent to each NDA and ANDA holder a study protocol, which the agency considered satisfactory under the regulation. The application holders were given 60 days to respond to the August 29 letter.

The five companies who hold approved NDA's and ANDA's for all marketed halogenated inhalation anesthetic drug products jointly petitioned the Commissioner of Food and Drugs on September 28, 1978, to stay the implementation of § 310.511. The petitioners contended that no rational basis existed in the regulation's administrative record that would permit FDA to require the holders of approved NDA's and ANDA's for halogenated inhalation anesthetic drug products to conduct the animal studies. The petitioners further contended that FDA is not authorized under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) to require the animal studies.

FDA viewed the petition to be untimely under § 10.35 (21 CFR 10.35), which requires a petition for stay to be submitted no later than 30 days after the date of the decision involved. To be timely, the petition should have been filed by August 22, 1977.

FDA nevertheless considered the petition and concluded that there remained some questions whether the studies required under § 310.511 were necessary. Accordingly, in the Federal Register of March 2, 1979 (44 FR 11753), FDA stayed § 310.511 pending a further examination of the value of the animal studies.

Although FDA believes that section 505(j) of the act authorizes requirements such as those imposed by § 310.511, the agency is proposing to revoke the requirements of § 310.511 because they no longer appear to be necessary.

The regulation was based on a review of 27 literature references and a recommendation by FDA's Anesthesiology Advisory Committee (formerly the respiratory and Anesthetic Drugs Advisory Committee). In the recommendation the Committee stated that sufficient evidence existed to cause concern about the carcinogenic and mutagenic potential of halogenated inhalation anesthetic drug products, as well as their effects on reproduction, including teratogenic potential. (A list of these articles can be found in the Federal Register of April 8, 1976 (41 FR 14888).)

One of the most important studies on which the Advisory Committee Recommendation was based was a mouse study conducted by Dr. Thomas H. Corbett entitled "Cancer and Congenital Anomalies Associated with Anesthetics." Since the Committee made its recommendation, FDA has concluded that the study is deficient, and that reliance upon its results as a basis for recommending further testing is unwarranted. A subsequent study by Eger (Ref. *6*) found the deficiencies in the Corbett study to inlcude: (1) contaminants—polybrominated biphenyls—were detected at levels of 0.068 ± 0.14 part per million in the test and control animals and possibly contributed to a higher average incidence of liver lesions in the animals; (2) test and control animals were treated differently in several ways which might have influenced the results; and (3) autopsies and slide readings were not done blindly and were therefore subject to bias.

Additionally, the following studies in both animals and humans have become

available since § 310.511 was issued as a final regulation and have produced data showing that the studies required by § 310.511 are not necessary. Copies of these studies have been placed on file in the Dockets Management Branch (address above).

REFERENCES

1. Mazze, M. K., et al., "Carcinogenic Potential of Halothane in Swiss/ICR Mice," American Society of Anesthesiologists Meeting, New Orleans, LA, October 15–19, 1977.

2. Coate, W. B., et al., "Inhalation Toxicity Study of Nitrous Oxide and Halothane in Rats," submitted to the National Institute for Occupational Safety and Health, February 24, 1977.

3. Greene, N. M., et al., "Reports on American Cancer Society, Study of Deaths Among Anesthesiologists," unpublished.

4. Baden, J. M., tested all of the commonly used anesthetic agents in the Ames bacterial assay system.

5. Eger, E. E., II, and associates tested isoflurane, methoxyflurane, nitrous oxide, halothane, enflurane, and fluroxene in the sister chromatid exchange mutagenicity test.

6. Eger, E. E., II, et al., "A Test of the Carcinogenicity of Enflurane, Halothane, Methoxyflurane, and Nitrous Oxide in Mice," *Anesthesia and Analgesia*, 57:678–694, 1978.

7. Kunz, W., G. Schaude, and C. Thomas, "The Effect of Phenobarbital and Halogenated Hydrocarbons on Nitrosamine Carcinogenesis," *Z. Krebsforsch*, 72:271–304, 1969.

8. Ferstandig, L. L., "Trace Concentrations of Anesthetic Gases: A Critical Review of Their Disease Potential," *Anesthesia and Analgesia*, 57:3, 1978.

This proposal does not affect the status of the requirements of the regulation. The requirements have been stayed and that stay will remain in effect until publication of a final rule based on this proposal.

The agency has carefully considered the potential environmental impact of this proposal and has concluded that the action will not have a sigificant effect on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch, Food and Drug Administration.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354), this certifies that the proposal would not have a significant economic impact on a substantial number of small entities, including small businesses. The agency has determined that because the effect of this proposal is to revoke a stayed regulation no economic impact on small businesses will result.

In accordance with Executive Order 12291, the economic effects of this proposal have been carefully analyzed and it has been determined that the proposal is not a major rule as defined by that Order. A copy of the threshold assessment supporting this determination is on file in the Dockets Management Branch (address above).

PART 310—NEW DRUGS

§ 310.511 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (Secs. 505, 701(a), 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), it is proposed that Part 310 be amended by removing § 310.511 *Inhalation anesthetic drugs.*

Interested persons may, on or before October 27, 1981, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 11, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81–25156 Filed 8–27–81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3280

[Docket No. R–81–933]

Manufactured Home Construction and Safety Standards

AGENCY: Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Advance notice of proposed rulemaking—Formaldehyde Emissions in Manufactured Homes.

SUMMARY: The Department of Housing and Urban Development is currently studying th levels of formaldehyde outgassing in manufactured homes. (throughout this ANPR "manufactured home" is used as defined in the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5402(6); such homes were formerly referred to as "mobile homes" prior to the amendment of the Act on October 8, 1980). Formaldehyde outgassing in these homes results from such materials as particle board, plywood, and paneling utilizing urea formaldehyde resins, and some fabrics used for rugs, furniture and draperies. The Department is also looking into the effect of this formaldehyde outgassing on the health of the occupants of these homes, since some evidence exists indicating that formaldehyde can have an adverse effect on air quality and health. The purpose of this Advance Notice of Proposed Rulemaking is to solicit comments and information from interested parties as to whether a standard is needed on formaldehyde outgassing in manufactured homes and if so, what would constitute an appropriate standard.

DATE: Comments are due October 27, 1981.

ADDRESS: Comments must be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Director, Standards Division, Office of Manufactured Housing Standards, Room 3248, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. (202) 755–5798 [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: It has come to HUD's attention that there may be a need to establish a standard in order to limit the possible adverse effects of formaldehyde upon occupants of manufactured homes. The State of Wisconsin Department of Justice and the Attorney General of Texas have expressly requested that a Federal ambient air formaldehyde standard be set. Furthermore, on January 27, 1981, the National Manufactured Housing Federation, Inc. filed a petition for Rulemaking proposing the adoption of a product standard by this Department. This ANPR is being issued specifically in response to this Petition for Rulemaking and in response to more general concerns about the problem of formaldehyde outgassing in manufactured homes.

The connection between formaldehyde gas and certain adverse health effects is supported by current available scientific and medical information. The formaldehyde gas level present in manufactured homes is due to outgassing from particle board, plywood, and paneling utilizing urea formaldehyde resins and some fabrics used for rugs, furniture and draperies, and the use of natural gas appliances. HUD has received numerous complaints from manufactured home occupants concerning discomfort and illness which may be due to formaldehyde gas in their homes.

As a consequent of these complaints and requests, the Department has sponsored meetings with other federal agencies including the Consumer Product Safety Commission, the Food and Drug Administration, the Environmental Protection Agency and the National Cancer Institute to identify specific concerns about formaldehyde and its effects and is monitoring research regarding formaldehyde undertaken by the scientific community and the manufactured homes industry. The Department is coordinating its activities with regard to formaldehyde with these Federal agencies and is seeking to avoid duplication of information gathering on this subject. Therefore, the Department will share the material received in response to this ANPR with these and any other appropriate Federal agencies.

Further, HUD has engaged in research to evaluate methods used to measure formaldehyde, assess the magnitude of the problem, gather data on formaldehyde outgassing, and developing regulatory alternatives to control formaldehyde emissions. The first phase of HUD's study, "An Evaluation of Formaldehyde Problems in Residential Mobile Homes," was recently published. (HUD–PDR–667, April, 1980).

To assist the Department in determining whether to institute rulemaking regarding formaldehyde outgassing in manufactured homes, the Department seeks advice from manufacturers, health officials, State and Federal agencies, and other interested persons as to whether a standard on formaldehyde is needed and, if so, what standard would be appropriate. HUD is authorized to promulgate standards under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* In order to determine whether a standard for formaldehyde should be set, the Department needs more information concerning the sources of formaldehyde in manufactured homes, the health effects of long and short term exposure to the gas, methods of testing levels of formaldehyde, and any available means by which to reduce or neutralize levels of formaldehyde in manufactured homes. Specifically, the Department requests comment and information on the following:

1. What are the adverse health effects attributable to both long and short term exposure to formaldehyde gas, particularly at low levels? At what level (expressed in parts per million) is each segment of the population (expressed in percentages) initially aware of or irritated by exposure?

2. What groups, if any, are particularly susceptible to the effects of exposure to various levels of formaldehyde gas?

3. Are there other substances commonly present in manufactured homes which cause the same or similar symptoms as those attributable to exposure to formaldehyde? If so, what are these substances?

4. What are the sources of formaldehyde in manufactured homes? What is the extent of contribution of formaldehyde gas of each of these sources and what is the cumulative effect of various components outgassing at different levels?

5. What means, if any, are available to eliminate, reduce or neutralize formaldehyde outgassing from these sources?

6. Are there readily available alternatives to the use of products in manufactured homes which are not known sources of formaldehyde? If so, how do their costs compare, including production costs, if they were substituted for formaldehyde emitting products?

7. How do the following component testing methods for levels of formaldehyde outgassing compare in terms of accuracy, reliability, feasibility and cost?

(a) Dessicator Test Procedure

(b) Perforator Test Procedure

(c) Dynamic Air Test Procedure

8. Can any of the component testing methods be correlated to predict levels of formaldehyde in the ambient air of manufactured homes?

9. How do the following methods for measuring formaldehyde outgassing in ambient air compare in terms of accuracy, reliability, feasibility, and cost?

(a) Modified Parosanaline Test Procedure

(b) NIOSH Chromotropic Test Procedure

(c) Passive Sensor Devices

(d) Automated Colometric Analyser (formaldehyde air monitor)

(e) Electronic Sensing Devices

Under what conditions should ambient air measurements be taken, i.e., occupants present, not present, or both; ventilated or unventilated?

10. Are there any other testing methods currently available for testing levels of formaldehyde outgassing and how do these compare in terms of accuracy, reliability, feasibility and cost?

11. Should a proposed standard set a limit on the outgassing and/or use of formaldehyde in materials used in manufactured homes (product standard) of should the standard set a limit on parts per million (PPM) of formaldehyde in the air of manufactured homes (ambient air standard), or both? If standards for ambient air are established, what differences (expressed in PPM), should be considered between measurements taken at the factory and those taken at the site?

12. Where should formaldehyde outgassing levels be tested: in the manufactured home factory, in the component plant, on the homesite, or any combination of the above?

13. What effect does temperature, humidity, and climate variation have on levels of formaldehyde outgassing?

14. What cost effective methods are available to increase the number of air changes in the manufactured home or otherwise vent formaldehyde gas from the home without compromising energy conservation goals currently reflected in the federal standards?

15. To what extent will various ventilation rates effect levels of formaldehyde gas in manufactured homes?

16. Is there any industry standard, consensus standard or standard proposed by a State that should be considered appropriate for adoption by the Department as a standard for formaldehyde emissions in manufactured homes?

17. What is the probable economic impact of various formaldehyde outgassing standards in terms of likely costs to both manufacturers and purchasers and what are the incremental costs of each progressively higher, i.e. more stringent standard?

18. Would a Federal formaldehyde standard enhance or inhibit the marketability of manufactured homes?

19. What factors should be considered in identifying the benefits of a Federal formaldehyde standard to manufactured home purchasers and occupants and how can these be quantified?

20. What factors should be considered in identifying the impact on manufactured home purchasers and occupants if there is no Federal Standard and how can these be quantified?

21. Should a label warning of the possible danger of exposure to formaldehyde gas be required for all manufactured homes by this or any other Agency?

(Sec. 625 of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5403)

Issued at Washington, D.C. August 20, 1981.

William O. Anderson,

General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection.

[FR Doc. 81-25170 Filed 8-27-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 381]

Lancaster Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is proposing the establishment of an American viticultural area in the State of Pennsylvania known as "Lancaster Valley." The proposal is based on a petition from a bonded winery, and would allow the "Lancaster Valley" viticultural area designation to be used for labeling and advertising of certain wines.

DATE: Written comments must be received by November 27, 1981.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attention: Notice No. 381.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Section 9.11, Title 27, CFR, defines an American Viticultural area as a delimited grape growing region distinguishable by geographic features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historic or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which are found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received the first petition to establish a viticultural area within the State of Pennsylvania. The proposed area, located in southeastern Pennsylvania, would be known as "Lancaster Valley" and is primarily located within Lancaster County with a small portion extending into Chester County. Lancaster Valley is approximately 31 miles long and 12 miles wide and contains about 225,000 acres.

The petitioner, Conestoga Vineyards, is a bonded winery located in the city of Lancaster. The petitioner states that the criteria used to differentiate the Lancaster Valley from surrounding areas are topography, soils, and geology.

The petitioner bases the petition on the following information:

(a) Lancaster County is located in the Piedmont Province physiographic division, which is further subdivided within the county into the Piedmont Upland, Northern Piedmont Lowland, and the Lancaster-Frederick Lowland. Lancaster Valley is located in the Lancaster-Frederick Lowland.

The topography of the Lancaster Valley is nearly level. It is a gently rolling plain averaging 400 feet in elevation. At its eastern edge, the valley raises to an average of 500 feet and over a distance of 30 miles the valley descends 200 feet to an altitude of 300 feet at its western edge along the Susquehanna River. The valley has areas of higher elevation and increasing slope at its boundaries.

The Lancaster Valley is generally bounded by areas of higher elevation ranging from 100 to 600 feet above the valley floor. These include the Welsh Mountain (1,000 feet), and the Baron Hills (800 feet) on the eastern boundary. The Gap Hill (800 feet), Mine Ridge (800 feet), Bunker Hill (540 feet), the Piedmont Upland (500 feet), and Turkey Hill (600 feet) are higher elevations along the southern boundary. Along the western boundary are the Manor Hills (600 feet), Chestnut Ridge (600 feet), Chestnut Hill (660 feet), and Chickies Ridge (620 feet). Higher elevations on the northern boundary include the Northern Piedmont Lowland (500 feet), Sporting Hill (500 feet), Kissel Hill (500 feet), Ephrata Mountain (800 feet), and Turkey Hill (840 feet).

(b) The soils found in the Lancaster Valley are typical of those derived from limestone. They are deep, well drained, highly productive soils with a high moisture holding capacity. Only two major soil associations are found in the Lancaster Valley. The Duffield-Hagerstown association and the Conestoga-Hollinger association. The soils bordering the Lancaster Valley are generally of other associations that are not as productive, deep, or well drained.

(c) The topography and soils of the Lancaster Valley result from the geology of the area. The valley is a limestone bed that has been weathered to a gently rolling plain. The limestones found in the valley include Conestoga, Beekmantown, Conococheague and Elbrook limestones, with Ledger and Vintage dolomites.

The hills and upland areas surrounding the Lancaster Valley are composed of harder rocks (quartzite, schist, gneiss, etc.) that are more resistant to erosion and weathering than the softer and more soluble limestones of the valley. The deep, fertile soils of the valley were formed from the insoluble and weathered products left from the decay of the parent limestones. The formation of the Lancaster Valley

resulted from the presence of a large unbroken expanse of limestone.

(d) Lancaster County has a long history of grapegrowing. In "Climatic Factors and the Potential for Wine-Grape Production in Several Areas of Pennsylvania," [1] Carl W. Haeseler notes that early colonists planted wine grapes in several areas of southeastern Pennsylvania, including Middletown and York. By 1826, he states there were 150 acres of grapes, primarily Alexander, centered around York, with additional acreages in Adams, Chester, Lancaster and Westmoreland Counties. Haeseler further notes that although the grape industry in the area eventually succumbed to disease, "York and Lancaster Counties are considered among the starting places of American viticulture."

The petitioner states that today there are approximately 41.5 acres of wine grapes within the Lancaster Valley viticulture area and that there are two bonded wineries within this area. These wineries grow grapes within the proposed viticultural area and purchase additional grapes from within and outside of the area.

(e) The climate is not a factor in differentiating the Lancaster Valley from the surrounding area. Because of the lack of high mountains to block weather patterns, the climate throughout Lancaster County is relatively uniform.

The county lies in an area of prevailing westerly winds which originate in the interior of North America. The Atlantic Ocean to the east (130 miles) represents a modifying factor and source of moisture. These conditions give a "Humid Continental" type of climate. The average annual temperature is 52.1° Fahrenheit with the coldest month being January (30.4° Fahrenheit) and the warmest month July (74.0° Fahrenheit). Precipitation occurs fairly evenly throughout the year with an average of 41 inches.

(f) The name Lancaster Valley is utilized by the Pennsylvania and United States Geologic Surveys to describe the region proposed in this viticultural area. The valley is located almost entirely within Lancaster County, Pennsylvania and Lancaster is the name of the largest city within the county and proposed viticultural area. The city of Lancaster was founded in 1718 and Lancaster County was established in 1729.

[1] Progress Report 303, January 1970, the Pennsylvania State University, College of Agriculture, Agricultural Experiment Station, University Park, Pennsylvania; Carl W. Haeseler.

Proposed Boundaries

The proposed viticultural area would occupy the middle third of Lancaster County, Pennsylvania. The valley would consist of that area delineated on the east by the 500 foot contour line and the Welsh Mountains. The southern boundary is delineated by the 500 foot contour line extending along Mine Ridge to the 76° 07'30" line of longitude. From there the boundary passes in approximately a straight line south of the town of Strasburg and south of Willow Street to the confluence of Stehman Run and Conestoga River. The boundary continues along Indian Run and Wisslers Run to the 300 foot contour line. The western boundary would be delineated by the 300 foot contour line above the Susquehanna River, Pennsylvania Highway 441 between Marietta and Bainbridge, and would exclude the Manor Hills, Chestnut Hills, Chestnut Ridge, and the Chickies Ridge. The northern boundary would be delineated by an irregular line extending from Bainbridge to Rheems, which then passes north of Mount Joy and south of Manheim, Lititz, Akron, Ephrata and Terre Hill to the intersection with Berks County at Pennsylvania Highway 23.

The exact boundaries of the proposed area and the appropriate U.S.G.S. Maps used to determine the boundaries are listed in the proposed regulation.

Public Participation

ATF requests comments from all interested persons concerning this proposed viticultural area. Furthermore, while this notice proposes possible boundaries for the Lancaster Valley viticultural area, suggestions concerning alternative boundaries will be given consideration prior to any final decision. ATF especially solicits comments on ways in which to simplify the proposed boundaries of this viticultural area.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappripriate for disclosure to the public should not be included in the comment. The name of any person submitting comments is not exempt for disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit his or her request, in writing, to the Director within the 90-day comment period. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This proposal is not expected to have a significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have a significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9 is amended to add § 9.41. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.41 Lancaster Valley.

* * * * *

Par. 2. Subpart C is amended by adding § 9.41. As added, § 9.41 reads as follows:

§ 9.41 Lancaster Valley.

(a) *Name.* The name of the viticultural area described in this section is "Lancaster Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lancaster Valley viticultural area are two U.S.G.S. maps. They are entitled:

(1) "Lancaster County, Pennsylvania", scaled 1:50,000; and

(2) "Honey Brook Quadrangle", 7.5 minute series.

(c) *Boundaries.* The Lancaster Valley viticultural area is primarily located in Lancaster County, Pennsylvania with a small portion extending into western Chester County, Pennsylvania. The beginning point is where Pennsylvania Highway 23 crosses the Lancaster and Berks County line.

(1) Thence in a southeasterly direction following the Lancaster County boundary for approximately 0.9 miles to the 500 foot contour line immediately south of the Conestoga River.

(2) Thence following the 500 foot contour in a southwesterly direction to the Caernarvon-East Earl Township boundary.

(3) Thence south approximately 0.1 mile following the Caernarvon-East Earl Township boundary to U.S. Highway 322.

(4) Thence west following U.S. Highway 322 for approximately 1.7 miles to the electric transmission line between Fetterville and Cedar Grove School.

(5) Thence southwest in a straight line for approximately 5.2 miles to the intersection of Earl, Upper Leacock, and Leacock Townships at the Mill Creek.

(6) Thence southeast following the boundary between Earl Township and Leacock Township to the point where Earl, East Earl, Salisbury, and Leacock Townships intersect.

(7) Thence east in a straight line for approximately 4.9 miles to the point where the 500 foot contour line intersects Pequa Creek northwest of Mt. Pleasant School.

(8) Thence following the 500 foot contour line past Cole Hill through the town of Gap and along Mine Ridge to the 76°07'30" west longitude line in Paradise Township.

(9) Thence southwest in a straight line for approximately 7.2 miles to the Boehm Church south of Willow Street.

(10) Thence northwest in a straight line for approximately 1.2 miles to the township school in West Willow.

(11) Thence west in a straight line for 4.2 miles to the confluence of Stehman Run and the Conestoga River.

(12) Thence northwest in a straight line for approximately 0.5 mile to the confluence of Indian Run and Little Conestoga Creek.

(13) Thence west following Indian Run for approximately 3.6 miles to the source of the more northerly branch.

(14) Thence northwest in a straight line for approximately 0.25 mile to the source of Wisslers Run.

(15) Thence west following Wisslers Run downstream for approximately 0.7 mile to the 300 foot contour line.

(16) Thence north following the 300 foot contour line to its intersection with Pennsylvania Highway 999 in Washington Boro.

(17) Thence east following Pennsylvania Highway 999 to the school in Central Manor.

(18) Thence northeast in a straight line for approximately 2.7 miles to the point where the West Branch of the Little Conestoga Creek intersects with Pennsylvania Highway 462.

(19) Thence west following Pennsylvania Highway 462 for approximately 1.5 miles to Stickler Run.

(20) Thence following Stickler Run southwest to the Columbia municipal boundary.

(21) Thence north following the eastern boundary of Columbia to Shawnee Run.

(22) Thence northeast in a straight line for approximately 5.8 miles to the intersection of Pennsylvania Highway 23 and Running Pump Road [unnamed on map] at elevation check point 436 near Centerville.

(23) Thence east following Pennsylvania Highway 23 for approximately 0.5 mile to the 400 foot contour line.

(24) Thence following the 400 foot contour line north around Chestnut Ridge, past Millers Run and continuing until the 400 foot contour line intersects an unnamed stream.

(25) Thence due south in a straight line for approximately 0.2 mile to the East Hempfield-West Hempfield Township boundary.

(26) Thence southeast following the East Hempfield-West Hempfield Township boundary for approximately 0.8 mile to Pennsylvania Highway 23 at Oyster Point.

(27) Thence west following Pennsylvania Highway 23 to the intersection with Pennsylvania Highway 441 at Marietta.

(28) Thence west following Pennsylvania Highway 441 to Pennsylvania Highway 241 near Bainbridge.

(29) Thence northwest in a straight line for approximately 5.5 miles to the point where the Consolidated Railroad Corporation [formerly the Pennsylvania Railroad main line] crosses the West Donegal-Mount Joy Township boundary in Rheems.

(30) Thence east in a straight line for approximately 3.3 miles to the Mt. Pleasant Church.

(31) Thence southeast in a straight line for approximately 2.6 miles to the intersection of Pennsylvania Highways 283 and 141.

(32) Thence northeast following Pennsylvania Highway 141 to the crossroads in Sporting Hill.

(33) Thence east in a straight line for approximately 2.0 miles to the point where the 400 foot contour lines crosses Pennsylvania Highway 72 south of Valley View.

(34) Thence following the 500 foot contour line east to Pennsylvania Highway 501.

(35) Thence east in a straight line for approximately 2.9 miles to the Union Meetinghouse.

(36) Thence southeast in a straight line for approximately 1.2 miles to the point where Pennsylvania Highway 272 crosses Cocalico Creek (which forms the boundary between West Earl and Warwick Townships).

(37) Thence northwest following the West Earl Township boundary to its intersection with U.S. Highway 322 southeast of Ephrata.

(38) Thence east in a straight line for approximately 3.4 miles to the Lincoln Independence School.

(39) Thence southeast in a straight line for approximately 1.7 miles to the West Terre Hill School.

(40) Thence east in a straight line for approximately 8.5 miles to the beginning point.

Signed: July 21, 1981.

G. R. Dickerson,

Director.

Approved: August 19, 1981.

John M. Walker, Jr.,

Assistant Secretary, Enforcement and Operations.

[FR Doc. 81-25237 Filed 8-27-81; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Fire Island National Seashore, New York; Seaplane Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rulemaking revises 36 CFR 7.20 by deleting two communities from designation as seaplane access areas on Fire Island National Seashore because of public safety problems which occurred during the 1980 summer season.

DATE: Written comments, suggestions or objections will be accepted until September 28, 1981.

ADDRESS: Comments should be directed to: Superintendent, Fire Islands National Seashore, Patchogue, New York 11772.

FOR FURTHER INFORMATION CONTACT: Joel Pickelner, Superintendent, Fire Island National Seashore, Telephone (516) 289-4810.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1979, the National Park Service promulgated final regulations to control seaplane and amphibious aircraft operations within Fire Island National Seashore (44 FR 44492). This rule established zones for take-offs and landings, and designated areas where taxiing could take place. These regulations were developed to promote public safety, to minimize the conflicts among the various users, and to protect the resources of the seashore.

The designation of these taxi routes was based on public comment received during the public involvement phase of the rulemaking process. Twelve island communities indicated a desire to permit seaplane and amphibious aircraft access.

After the promulgation of this regulation in July 1979 there continued to be a conflict between the property owners and visitors in three of the island communities—Fair Harbor, Ocean Bay Park, and Cherry Grove. Due to the fact that these three communities have bayside swimming beaches and mooring access, interaction between seaplanes and those pursuing water recreation activities continued and created numerous public safety problems. From July 22 to September 9, 1979, 50 complaints were filed with the National Park Service. These complaints cited such incidents as near collisions between seaplanes and boats, and seaplanes taxiing among swimmers.

As a result of these complaints and the potential threat to life and property indicated, the representatives of the Fair Harbor, Ocean Bay Park and Cherry Grove communities approached the National Park Service and asked that their communities no longer be designated as access points for seaplane use. Notarized letters to this effect were received by the Superintendent indicating that community referendums were held and a majority favored the removal of seaplane access designation. An amendment to these regulations (45 FR 49549; July 25, 1980) removed these three communities from designation as seaplane access points, as requested by the community leaders.

During the 1980 summer season, the residents and visitors in the communities of Dunewood and Point O' Woods experienced similar problems and likewise forwarded notarized letters indicating the need for greater protection from seaplane use and showing the results of referenda indicating the majority desire to restrict seaplane access from the lands and waters within their community boundaries. This proposed rule reflects the results of these public requests and removes these two additional communities from the list of approved seaplane access points.

At the time these seaplane and amphibious aircraft regulations were initially proposed in 1978 (43 FR 35070), an environmental assessment was prepared as required by the National Environmental Policy Act (83 Stat. 852, 42 U.S.C. 4321 *et seq.*). This assessment is on file at the park headquarters listed above. Additionally, the subject matter of this rulemaking has been open to and received extensive public comment in 1978 and 1979.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to offer the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections to the address noted at the beginning of this rulemaking.

Drafting Information

The author of this regulation is Donald Weir, Fire Island National Seashore.

Compliance with Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C 4332) the Service prepared an Environmental Assessment in 1978, and received extensive public comment during 1978 and 1979, regarding the subject matter of 36 CFR 7.20(b) dealing with seaplane and amphibious aircraft operations at Fire Island National Seashore.

The Service has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 (46 FR 13193; February 19, 1981).

This rule does not contain an information collection or recordkeeping requirement as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

In accordance with the regulatory Flexibility Act (Pub. L. 96-354) which became effective January 1, 1981 and 43 CFR Part 14, the Service has determined that the regulations proposed in this rulemaking will not have a significant economic effect on a substantial number of small entities, nor does it require the preparation of a regulatory analysis.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3))

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing it is proposed to revise § 7.20(b)(3) of Title 36, Code of Federal Regulations as follows:

§ 7.20 Fire Island National Seashore.

* * * * *

(b) * * *

(3) Aircraft may taxi on routes perpendicular to the shoreline to and from docking facilities at the following locations:

(i) Kismet—located at approximate longitude 73°12½' and approximate latitude 40°38½'

(ii) Lonelyville—located at approximate longitude 73°11' and approximate latitude 40°38½'.

(iii) Atlantique—located at approximate longitude 73°10½' and approximate latitude 40°38½'.

(iv) Robbins Rest—located at approximate longitude 73°10' and approximate latitude 40°38½'.

(v) Fire Island Pines—located at approximate longitude 73°04½' and approximate latitude 40°40'.

(vi) Water Island—located at approximate longitude 73°02' and approximate latitude 40°40½'.

(vii) Davis Park—located at approximate longitude 73°00½' and approximate latitude 40°41'.

[FR Doc. 81-25226 Filed 8-27-81; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 124, and 146

[WH-6-FRL-1922-5]

Texas Department of Water Resources; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) the Environmental Protection Agency has received a complete application from the Texas Department of Water Resources requesting Primary Enforcement Responsibility for the Underground Injection Control program; (2) the appliction is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Texas Department of Water Resources to regulate Classes I, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by September 21, 1981; Public Hearing will be held on September 28, 1981, 10:00 a.m.—5:30 p.m. and 7:00 p.m.—10:00 p.m. Comments must be received by October 5, 1981.

ADDRESSES: Comments and requests to testify may be mailed to Ronald Van Wyk, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas, 75270. Copies of the application and pertinent material are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767–7341.

Texas Department of Water Resources, Underground Injection Control Section, Stephen F. Austin Building, 1700 North Congress, Austin, Texas, (512) 475–7098.

The Hearing will be held at the Environmental Protection Agency, Conference Room, 29th floor, Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Julie Coston, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the Texas Department of Water Resources is for the regulation of injection wells as follows:

(1) *Class I.*

(A) Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste, other than Class IV wells;

(B) Other industrial and municipal 1 waste disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water. (This category includes disposal wells operated in conjunction with uranium mining activities).

(2) *Class III.* Wells which inject for extraction of minerals, including:

(A) Mining of sulfur by the Frasch process;

(B) Solution mining of minerals which includes sodium chloride, potash, phosphate, copper, uranium and any other mineral which can be mined by this process.

(3) *Class IV.* Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into or above a formation which, within one quarter mile of the well, contains an underground source of drinking water.

(4) *Class V.* Injection wells not included in Class I, II, III, or IV. Class V wells include:

(A) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;

(B) Cesspools or other devices that receive wastes, which have an open bottom and sometimes have perforated sides;

(C) Cooling water return flow wells used to inject water previously used for cooling;

(D) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

(E) Dry wells used for the injection of wastes into a subsurface formation;

(F) Recharge wells used to replenish the water in an aquifer;

(G) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

(H) Sand backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines;

(I) Septic system wells used:

(i) to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank; or

(ii) for a multiple dwelling, community or regional cesspool;

(J) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water.

Dated: August 24, 1981.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 81-25228 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 531 and 536

[General Orders 13 and 38; Docket No. 81-51]

Time Limit for Filing of Overcharge Claims

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: This would amend the Commission's tariff filing requirements to prohibit carriers from barring shippers' filing of overcharge claims less than two years after date of shipment. The two-year period is intended to coincide with the period prescribed in Section 22 of the Shipping Act, 1916 for reparations awarded for injuries from violations of the Act. The effect of the amendment will be to prevent unnecessary administrative proceedings where there is no dispute among the parties, and to ensure that violations of Section 18(b)(3) of the Shipping Act, 1916 do not go unredressed because of unreasonable limitations in carriers' tariffs.

DATE: Comments (original and fifteen copies) on or before: October 30, 1981.

ADDRESS: Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Although Section 22 of the Shipping Act, 1916 (46 U.S.C. 821) establishes a two-year statute of limitations for reparations for violations of the Act, informal overcharge claims by shippers are frequently denied by carriers on the basis of carriers' or conferences' inclusion in their tariff of a time limit of shorter duration for filing such claims. Because these tariff provisions typically require claims to be filed within six months of the date of shipment, they are generally referred to as "six-month rules." When such a six-month rule is operative, shippers who become aware of possible overcharges more than six months after the date of shipment must pursue their claim by filing a complaint with the Commission, since any informal channel to reparation is barred by the tariff rule. Thus, the rule imposes a burden on shippers and bars the most convenient and efficient means of correcting freight overcharges.

Another effect of the six-month rule is that shippers whose informal claims are denied by carriers as untimely may choose to give up at this stage, and not even proceed with adjudication before the Commission. In these situations, any overpayment of freight charges goes uncorrected, and the six-month rule allows carriers to continue to violate Section 18(b)(3).[1] Thus, the six-month rules not only serve as a limitation on the statutory period but may also act as an obstacle to the redress of Section 18(b)(3) violations.

When an administrative proceeding is initiated because of invocation by the carrier of its six-month rule, it is often devoid of any real dispute among the parties. It has been the Commission's experience that in a substantial number of its informal docketed proceedings,[2] the parties are in agreement that there was a misrating of cargo for which an adjustment should be made, but voluntary resolution by the parties is nevertheless proscribed by the tariff's six-month rule. Thus, the Commission's docket procedures, designed for the efficient resolution of disputes between adversaries, become the forum for uncontested litigation, resulting in unnecessary expense of time and resources.

Moreover, a six-month rule in a carrier's tariff is likely to conflict with several objectives of the Shipping Act. Section 14 Fourth of the Act (46 U.S.C. 812) states that a carrier shall not "unfairly treat * * * any shipper in the matter of * * * the adjustment and settlement of claims." The Commission is aware of no reason why the time period for filing informal overcharge claims should be briefer than the two-year period allowed by statute for the filing of claims with the Commission. The arbitrary prohibition against the informal settlement of claims six months after date of shipment imposes burden on complaining shippers—they are forced to bring their claim before the Commission. Moreover, this is often an expensive burden; shippers who would have pursued a voluntary adjustment with the carrier using their in-house personnel may find it necessary to hire counsel to pursue the same claim before the Commission. Thus the six-month rule serves to require shippers with overcharge claims to make substantial expenditures. These impositions may constitute unfair treatment in violation of section 14 Fourth of the Act.

For the same reasons, the operation of six-month rules is also likely to result in a violation of section 15's requirement that conferences "adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints."

Frequently, tariff rules contain a provision that errors in weight or measurement must be brought to the attention of the carrier or conference before the cargo leaves its custody. Such restrictions generally constitute an impediment of the same nature and effect as the six-month rule, and the rule proposed here is intended to proscribe these as well.

Similarly, at least two conferences have filed with the Commission a modified six-month rule, permitting overcharge claims within two years of the date of sailing, but assessing an "administration charge" for claims submitted later than six months. Imposition of a fee is a less severe sanction than a flat bar on acceptance of claims. Nevertheless, it appears that the assessment of a claim fee serves as a penalty upon those seeking correction of statutory violations. It is the Commission's intention to proscribe such fees and limitations by the rules proposed herein.

The Commission therefore proposes to amend its rules to prohibit the inclusion in carriers' tariffs of time limitations of less than two years on overcharge claims filed with the carrier or conference. This two-year allowance is intended to coincide with the limit prescribed by the Shipping Act on compliants filed with the Commission. Such an amendment will ensure that Section 18(b)(3) proceedings instituted before the Commission are genuinely disputed proceedings and not merely time-consuming exercises in administrative litigation, devoid of any real dispute and necessitated by arbitarily-imposed time limits on claims. The amendment would also ensure that shippers subjected to overcharges will not be needlessly discouraged from correcting statuory violations.

The Commission finds that the proposed rule is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601). Section 601(2) of that Act excepts from its coverage any "rule of particular applicability relating to rates * * * or practices relating to such rates * * *." As the proposed rule clearly relates to rates and rate practices, the Regulatory Flexibility Act requirements are determined to be inapplicable.

Therefore, Pursuant to 5 U.S.C. 553 and Sections 14 Fourth, 15, 18(b)(3), and 43 of the Shipping Act, 1916 (46 U.S.C. 812, 814, 817, and 841a), the Commission proposes to amend 46 CFR Parts 531 and 536 by adding new §§ 531.—— and 536.—— as follows:

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

§ 531. Time limit for filing of overcharge claims.

No tariff in the domestic offshore commerce shall in any way limit the filing of overcharge claims with a carrier to a period of less than two years after accrual of the cause of action, nor shall any such tariff condition the filing of any overcharge claim on the payment of any fee or charge.

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

§ 536 Time limit for filing of overcharge claims.

No tariff in the foreign commerce shall limit the filing of overcharge claims with a carrier or conference to a period of less than two years after the accrual of the cause of action, nor shall any such tariff condition the filing of any overcharge claim on the payment of any fee or charge.

[1] Section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. 817) requires that carriers charge or receive compensation for transportation only at the rates published in their tariffs and on file with the Commission. *Ludwig Mueller Co., Inc. v. Peralta Shipping Corp.*, 8 F.M.C. 361, 365 (1965). *See also, Louisville & N.R.R. Co. v. Maxwell*, 237 U.S. 94 (1915).

[2] That is, those initiated pursuant to 46 CFR 502.301 *et seq.*, Informal Procedures for Adjudication of Small Claims.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-25208 Filed 8-27-81; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Part 536

[Docket No. 81-50]

Per-Container Rates; Tariff Filing Requirements Applicable to Carriers and Conferences in the Foreign Commerce of the United States; Petition Filed by Sea-Land Service, Inc.; Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its tariff filing regulations to specifically provide for the filing of per-container rates. It has been brought to the Commission's attention by petition, and comment thereupon, that tariff publications in the U.S. foreign commerce containing per-container rates are deficient. The modification is intended to insure the proper application of rates to cargo moving in containers.

DATE: Comments (original and 15 copies) due on or before October 27, 1981.

ADDRESS: Send comments and inquiries to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, (202) 523-5725.

SUPPLEMENTAL INFORMATION: Sea-Land Service, Inc. (Sea-Land) by petition brought to the Commission's attention the need for tariff filing regulations applicable to containerized shipments in the foreign commerce. The petition for a rulemaking proceeding was published in the **Federal Register** on September 9, 1980. Comments were received from various carriers and conferences of carriers which have been considered and included in this proposal.

Carrier methods of holding out rates in their tariffs have changed considerably in the past ten years. Where previously tariffs primarily contained only measurement, or measurement and weight rates, there now exists in tariffs various methodologies for rating cargoes. These methodologies include: rates per container, lump sum rates, rates per "box," rates for mixed containerized shipments and so-called "all inclusive" rates per container. Carriers are additionally holding-out various types of distinctly different services to their customers, such as: house-to-house, pier-to-pier, container-freight station to container-freight station (CFS/CFS), containeryard to containeryard (CY/CY) and various combinations of the above. The results of these methods of providing services and applying rates has been a general increase in the complexity of carrier tariffs, a lack of definiteness of how the rates are proposed to be applied and a general ambiguity as to the service offered by a carrier and the conditions applicable to the service. Nowhere is the need for clarity more apparent than in the application of per-container rates.

The Commission has previously addressed the need for standards for the publication of both domestic and foreign rates applicable to shipments made on a per-container basis. While the requirements for publication of rates applicable to domestic off-shore trades were adopted under FMC Docket No. 73-40, the proceeding with regard to the foreign commerce under FMC Docket No. 73-39 was discontinued. In 1973 the conferences and the majority of commentators to Docket No. 73-39 supported discontinuance of the docket on the grounds that per-container rates were virtually unknown in the United States foreign commerce trades. It was also believed at that time that any rule would have had limited applicability, since it was directed at carriers publishing rates which were determined by the full or partial utilization of the cubic capacity of a container. Per-container rates appeared too infrequently in tariffs to justify any extensive publication of specifications of all types of containers.

In the meantime, however, the steady development of containerization as a mode of shipping cargo in the foreign commerce has all but replaced the former break-bulk method. This change in the shipping industry has brought with it certain problems with regard to freighting containerized cargo, which could not have been easily foreseen at the outset.

Sea-Land's petition raised several questions with regard to per-container rates, and suggested that the Commission establish regulations to provide for the filing of such rates. The rate structure of carriers operating in the United States foreign commerce has changed considerably in the last several years; the commentators to the petition now believe that definitive regulations should be promulgated with respect to the use of per-container rate quotations.

Carriers are seeking guidance from the Commission as to the manner in which per-container rates can lawfully be established; while shippers, on the other hand, need to know with some degree of certainty what charges will be assessed when they ship under such rates.

Steamship conferences emphasize that the present terminology "per-container rates" is broad and undefined to such an extent that a considerable amount of uncertainty exists as to the implications of the description.

The proposed rule is intended to enable the shipping public to accurately determine the applicable tariff rates and charges of moving cargo at time of or prior to shipment. The rule would require all carriers and conferences in the United States foreign commerce to properly qualify every tariff item in instances where per-container rates are applicable.

Section 16 First and 17 of the Shipping Act, 1916, proscribe undue or unreasonable preference or advantage; unreasonable prejudice or disadvantage; and prohibit carriers from demanding, charging or collecting any rate or charge which unjustly discriminates between shippers.

There is a potential for undue preference or prejudice and for unjust discrimination inherent in per-container rates in that containers or trailers with different capacities may be furnished by a carrier to two different, or competing shippers at the same rate. The shipper who can place more cargo into the equipment may receive a transportation benefit and, perhaps, a competitive edge.

To address this problem, the proposed rule (§ 536.19(a)) sets forth two alternative provisions in order to generate the broadest spectrum of comments. The first alternative would require the publication of the sizes and capacity specifications of containers and trailers upon which per-container rates are based and would require that the rate be adjusted to equipment of differing capacities through either a formula or a conversion table. This approach would thus focus on the value of service to the shipper in terms of the capacity which the shipper obtains and ensure that the rate is related directly to that capacity.

The second alternative would permit more flexibility for carriers in establishing per-container rates for varying sizes of equipment. It would not require a specific relationship between the capacity of the container/trailer and the rate charged (although carriers would certainly be free to establish such a relationship through a formula or conversion table as described in the first alternative). Instead, the rule would permit the carrier to charge the same rate for any "standard" size container or

trailer in a particular size category and type, e.g., 20 foot dry van, 40 foot reefer, etc.

A review of the Official Intermodal Equipment Register (FMC–F–No. 45) indicates that almost all ocean carriers have containers and trailers in nominally standard size categories, e.g., 20 feet or 40 feet, which vary in their interior capacities. In fact, it is very difficult to define a typical or "standard" container in terms of interior capacity. In most cases, the variances are no more than a few cubic feet. In fact, it is uncommon to find variances of more than five percent of the capacity of the trailers/containers in a given carrier's inventory. Thus, the publication of a formula or conversion table may create a tariff burden with little real meaning for the shipping public.

While the problem of discrimination among shippers could be magnified by the application of per-container rates to shipper owned or leased containers, the Commission is cognizant of the fact that per-container rates are a shift from traditional break-bulk oriented tariffs and is desirous of formulating a rule that will not stifle initiatives in this direction any more than is necessary to protect the shipping public.

Further, shippers which tender cargo to a carrier's container freight station (CFS) based upon lump sum quotations, cannot be sure under some tariff descriptions if the amount of cargo they tender will be loaded efficiently into one container, or whether an additional charge will be made to pay extra overflow charges due to inefficient packing on the part of the carrier. The shipper's cost per ton of a given commodity may vary from shipment to shipment.

There are numerous variations of indefinite applications with respect to per-container rates currently appearing in many tariffs on file with the Commission. The proposed rule would require every carrier publishing such rates to clarify or eliminate the rate applications by standardizing the terminology utilized and prescribing minimum acceptable standards.

The Commission finds that the proposed rule is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601). Section 601(2) of that Act excepts from its coverage any "rule of particular applicability relating to retes * * * or practices relating to such rates * * *". As the proposed rule clearly relates to rates and rate practices, the Regulatory Flexibility Act requirements are determined to be inapplicable.

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C 533), and sections 18(b), 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b), 821 and 841(a)), the Commission proposes to amend 46 CFR Part 536 (General Order No. 13) as follows:

By redesignating current paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o) as paragraphs (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p), (q), (s), and (t), respectively. New paragraphs (b), (g), (l), (o), (r) and (u) are added to read as follows:

§ 536.2 Definitions.

* * * * *

(b) *Capacity*—the maximum cubic volume and weight tons carrying capability of a container/trailer.

* * * * *

(g) *Container*—trailer body transported without chassis (wheels) on board vessels

* * * * *

(l) *Mixed Shipment*—a shipment consisting of more than one commodity, i.e., consisting of articles described under more than one commodity or class rate item number in a tariff.

* * * * *

(o) *Per-Container Rate*—rates and or charges on shipments transported in containers or trailers and rated on the basis of the container or trailer.

* * * * *

(r) *Shipment*—a quantity of freight received from one shipper at one origin location, consigned to one consignee carried on one voyage, on one bill of lading, for delivery to one or more destination locations.

* * * * *

(u) *Trailer*—wheeled vehicle on or into which freight can be loaded and transported aboard ocean vessels.

* * * * *

II. A new § 536.19 is added to read as follows:

§ 536.19 Tariffs publishing Per-Container rates.

(a) *Filing Requirements (First alternative).* Tariffs which contain Per-Container rates shall state the size and capacity specifications of the container/trailer upon which said rates and/or charges are based. Where use of containers of different interior capacities is possible the unit freight charge shall be appropriately adjusted by either a formula or a conversion table as provided in the tariff item(s), *or*

(a) *Filing Requirements (Second alternative).* Tariffs which contain Per-Container rates shall state a rate for each category of container or trailer to which such rate applies, e.g., 20-foot dry van, 40-foot refrigerated trailer, 40-foot hi-cube van, etc.

(b) Tariffs which publish rates for mixed shipments shall contain a governing rule or provide reference to a separate publication which shall clearly define the application of such rates including individual commodity minimum requirements by volume, weight and commodity mix. The rule shall also provide that whenever there is a mixing of cargoes in a container for which there is no specific rate item permitting and indicating a rate for that mixture, the weight or measurement rate for each commodity shall apply.

(c) Mixed shipment rate items shall list therein all articles or merchandise which may be shipped under the rate. Any restrictions in connection with the rate item shall be clearly provided in order to preclude possible duplication, conflicting or other erroneous application of rates. Each commodity contained in mixed shipment rate items shall be listed in the tariff's commodity index or cross-referenced in the body of the tariff. Additionally, the mixed shipment rate item shall specify the condition, if any, to which such rate item shall be subject, e.g.:

(1) Type of service offered, whether CY/CY or CFS/CFS, etc;

(2) Limitations in the number of commodities allowed or required per bill of lading and the percentage of the total shipment that one commodity may not exceed;

(3) Limitations as to ports or points of destination.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-25133 Filed 8-27-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 80-632]

Overseas Communications Services; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission..

ACTION: Notice of proposed rulemaking; extension of filing period.

SUMMARY: This Document considers requests of RCA Global Communications, Inc. for extension of reply comments date and establishment of an additional response pleading in C.C. Docket No. 80-632 on overseas communications services.

The extension of time is granted to permit interested parties to submit detailed reply comments regarding proposed rulemaking.

The intended effect of this action is to provide Commission with the most complete and meaningful record possible. Request for an additional response pleading is denied as premature.

DATE: Reply comments now due on September 28, 1981.

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

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, (202) 632-7265.

In the Matter of Overseas Communications Services; CC Docket No. 80-632, 45 FR 76498; 11-19-80; Order Granting Extension Of Time.

Adopted: August 20, 1981.

Released: August 21, 1981.

By the Common Carrier Bureau:

1. In this proceeding, the Commission is considering whether or not to change its 1964 TAT-4 policy decision, 37 F.C.C. 1151, which created an overseas voice/record dichotomy. As a result of TAT-4, AT&T has not been able to offer overseas record services (other than Dataphone) and the IRCs have not been able to provide overseas voice services (other than Datel). Comments were filed on July 10, 1981, and reply comments are due on August 21, 1981.

2. On August 7, 1981, RCA Global Communications, Inc. (RCAG) filed a motion to extend the time to submit reply comments until September 28, 1981. RCAG also requests that time be allowed until October 23, 1981, for the filing of responses to the reply comments. In support of its request RCAG states that the important and complex issues before the Commission in this proceeding, which proposes to restructure the overseas communications industry, warrant an extension of time and an additional pleading period. RCAG also points out that the second half of NTIA's study was filed late and that key personnel have not been available. Finally, RCAG represents that the other international record carriers, NTIA and SBS do not object to a grant of the full relief requested and that ARINC does not object to a grant of additional time to file reply comments.

3. On August 14, 1981, the American Telephone and Telegraph Company (AT&T) filed a response to RCAG's motion. AT&T does not object to the grant of additional time to submit reply comments. However, AT&T states that RCAG's request for a third round of pleadings is premature and should be dismissed without prejudice.

4. We believe, in view of the comprehensive studies submitted by NTIA and the IRCs, that the record in this proceeding will be more complete and meaningful if additional time is granted to file reply comments. However, we agree with AT&T that the establishment of a third pleading period at this time, before the reply comments are submitted and studied, would be premature.

Any future request for the creation of an additional pleading period pursuant to Section 1.415 of the Commission's Rules should state with particularity the reasons necessitating such action.

5. Accordingly, IT IS ORDERED that the date for all interested persons to file reply comments in CC Docket No. 80-632 is extended from August 21 to September 28, 1981. IT IS FURTHER ORDERED that RCAG's motion for an additional round of pleadings is dismissed without prejudice.

6. This order is issued under § 0.291 of the Commission's Rules on Delegations of Authority, and is subject to review under § 1.115 of the Rules on Practice and Procedure.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 81-25155 Filed 8-27-81; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 46, No. 167
Friday, August 28, 1981

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

Uinta and Manti-LaSal National Forests; Moon Lake Powerplant Project

AGENCY: Forest Service, USDA.

ACTION: Record of decision.

SUMMARY: This notice announces the Decision of the Regional Forester, Forest Service, Ogden, Utah, dated August 18, 1981, regarding the corridor location and transmission tower design on the Uinta and Manti-LaSal National Forests for Bonanza Unit 1 345 kV transmission lines of the Moon Lake Powerplant Project proposed by the Deseret Generating and Transmission Cooperative.

This Decision follows a review of the Final Environmental Impact Statement (FEIS) issued May 1, 1981. This Statement was the result of more than a year's study by several agencies and consultants. The Bureau of Land Management (BLM), Department of the Interior, and Rural Electrification Administration, Department of Agriculture, were the joint lead agencies for preparation of the EIS. They were assisted by the Forest Service and Office of Surface Mining as cooperating agencies.

The Regional Forester's Decision completes the coordinated action needed to supplement the BLM decision on the location of the transmission corridor on public, private, state, and Indian lands.

This Decision is subject to administrative review in accordance with the provisions of 36 CFR 211.19. A request for review must be filed no later than October 2, 1981, or within 30 days of the date of receipt of the Decision by persons entitled to notification of the Decision under 36 CFR 211.19(d)(1).

The Forest Service Decision Option Document and Record of Decision is available for public review at the following offices:

Forest Service, Department of Agriculture, 12th and Independence Streets, Room 2310, Washington, D.C. 20013

Regional Office, Forest Service, 324 25th Street, Room 2025, Ogden, UT 84401

Forest Supervisor's Office, Ashley National Forest, 437 East Main Street, Vernal, UT 84078

Forest Supervisor's Office, Manti-LaSal National Forest, 599 West Price River Drive, Price, UT 84501

Forest Supervisor's Office, Uinta National Forest, 88 West 100 North, Provo, UT 84601

Forest Supervisor's Office, Wasatch National Forest, 8226 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Butler, Regional Energy Development Officer, Forest Service, 324 25th Street, Ogden, Utah 84401 801–626–3332.

Dated: August 21, 1981.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 81-25137 Filed 8-27-81; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Brazos Electric Power Cooperative, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact (FONSI) in connection with proposed financing assistance by REA for Brazos Electric Power Cooperative, Inc. (Brazos), of Waco, Texas. Brazos proposes to construct 4.9 miles of double circuit 138 kV transmission line in Leon County; 27 miles of single circuit 138 kV transmission line in Leon, Madison, and Grimes Counties; 0.2 mile of double circuit 138 kV transmission line in Brazos County; expand an existing substation in Leon County on an adjacent acre of land; and install additional equipment in an existing substation in Brazos County.

Brazos prepared a Borrower's Environmental Report concerning the proposed project and an Environmental Assessment has been prepared by REA. Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands, floodplains, and all other potential impacts of the proposed project have been adequately investigated.

The alternatives evaluated by REA included no action, replacement of the 69 kV Hearne to Bedias line, and various alternative routes. The alternative routes considered were to construct a transmission line from Franklin Substation to Hilltop Lakes or Bedias, to reroute the northern section of the proposed Hilltop Lakes to Bedias line, placement of this line further east, and to reroute the line south of Hilltop Lakes Development and north of Normangee City Park. After reviewing these alternatives, REA has determined that construction of the project as proposed represents the preferred alternative.

REA's independent evaluation of the proposed project concludes that its proposed financing assistance for this action does not represent a major Federal action that will significantly affect the quality of the human environment.

Based on this independent evaluation, the REA Assessment, and a review of Brazos' Borrower's Environmental Report, a Finding of No Significant Impact was reached in accordance with REA Bulletin 20–21:320–21, Part 1.

Copies of REA's Finding of No Significant Impact, REA's Environmental Assessment, and Brazos' Borrower's Environmental Report may be reviewed at REA in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Washington, D.C. 20250, and at the office of Brazos Electric Power Cooperative, Inc., 2404 LaSalle Avenue, P.O. Box 6296, Waco, Texas 76706. Limited copies of these documents also are available and can be obtained from REA, Office of the Director, Power Supply Division at the address given above.

(Catalog of Federal Domestic Assistance 10.850—Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 21st day of August 1981.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-25171 Filed 8-27-81; 8:45 am]

BILLING CODE 3410-15-M

Garkane Power Association, Inc., Richfield, Utah; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22, (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $391,000 to Garkane Power Association, Inc., of Richfield, Utah. These loan funds will be used to finance the costs for increasing the firm capacity of its existing Boulder Project on the Boulder Creek in Garfield County, Utah, by 1.4 MW for a total of 4.2 MW and for feasibility studies of four additional sites. The four additional sites are: (1) Mill Meadow on the Fremont River in Wayne County, Utah, potential capacity 1.8 MW; (2) Lower Boulder on the Boulder Creek in Garfield County, Utah, potential capacity 2.2 MW; (3) Lower Fremont River on the Fremont River in Wayne County, Utah, potential capacity 1.8 MW; and (4) Kingston Canyon on the East Fork Sevier River in Piute County, Utah, potential capacity 1.8 MW.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and the proposed schedule for advances to the borrower from Mr. Glen P. Willardson, Manager, Garkane Power Association, Inc., P.O. Box 748, Richfield, Utah 84701.

In order to be considered, proposals must be submitted by September 28, 1981, to Mr. Willardson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Garkane Power Association, Inc. and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with REA.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance 10.850–Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 21st day of August 1981.

Jack Van Mark,

Administrator, Rural Electrification Administration.

[FR Doc. 81-25173 Filed 8-27-81; 8:45 am]

BILLING CODE 3410-15-M

Lower Valley Power and Light, Inc., Afton, Wyo.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–92 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22, (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $5,150,00 to Lower Valley Power and Light, Inc., of Afton, Wyoming. These loan funds will be used to finance the reconstruction of a 1.5 MW hydroelectric generating plant and associated facilities at the existing Swift Creek Porject, on the Swift Creek in Lincoln County, Wyo.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and the proposed schedule for advances to the borrower from Mr. Boyd A. Parker, Manager, Lower Valley Power and Light, Inc., P.O. Box 188, Afton, Wyo. 83110.

In order to be considered, proposals must be submitted by September 28, 1981, to Mr. Parker. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Lower Valley Power and Light, Inc. and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with REA.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance 10.850–Rural Electrification Loans and Loan guarantees.)

Dated at Washington, D.C., this 21st day of August 1981.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-25172 Filed 8-27-81; 8:45 am]

BILLING CODE 3410-15-M

Loup Valleys Rural Public Power District, Ord, Nebr.; Transmission Facilities; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to proposed financing assistance to Loup Valleys Rural Public Power District (District) of Ord, Nebraska, for the construction of new transmission facilities in Nebraska. A proposed 69 kV transmission line will extend 48 km (30 mi) from the proposed Ord Substation in Valley County, through Garfield County, to the proposed Ericson Substation in Wheeler County.

REA reviewed a Borrower's Environmental Report (BER) prepared by the District and determined that it represents an accurate assessment of the environmental impact of the project. Based upon the BER and information from other sources, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not represent a major Federal action significantly affecting the quality of the human environment.

REA has determined that the proposed project will not adversely affect floodplains, wetlands, federally listed threatened or endangered species, important farmlands or known cultural resources. Alternatives examined include no action, energy conservation, upgrading existing facilities underground construction, and alternative routes. After reviewing these alternatives, REA determined that the proposed project is the preferred alternative because it best meets the District's needs with the minimum of adverse impacts.

REA's Finding of No Significant Impact and Environmental Assessment and the District's BER may be reviewed in or requested from the Office of the Director, Distribution Systems Division, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 447–4413, or at the office of Loup Valleys Rural Public Power District, (Mr. Wilbert Calvin, Manager), P.O. Box 166, Ord,

Nebraska 88101, telephone: (308) 728–5541.

(Catalog of Federal Domestic Assistance 10.850—Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 25th day of August 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81–25244 Filed 8–27–81; 8:45 am]

BILLING CODE 3410–15–M

French Broad Electric Membership Corp., Marshall, N.C.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22, (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $735,000 to French Broad Electric Membership Corporation, Marshall, North Carolina. These loan funds will be used to finance front-end studies of proposed hydroelectric generation facilities with a nameplate rating of 3 MW to be installed near Marshall, North Carolina, on the French Broad River.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project from Mr. Charles R. Tolley, Manager, French Board Electric Membership Corporation, P.O. Box 9, Marshall, North Carolina 28753.

In order to be considered, proposals must be submitted by September 28, 1981, to Mr. Tolley. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as French Broad Electric Membership Corporation and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with REA.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance 10.850–Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 25th day of August 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81–25242 Filed 8–27–81; 8:45 am]

BILLING CODE 3410–15–M

Seminole Electric Cooperative, Inc., Tampa, Fla.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22, (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $1,550,000 to Seminole Electric Cooperative, Inc., Tampa, Florida. These loan funds will be used to finance front-end studies of proposed peat-fired electric generation facility with a nameplate rating of 100 MW. If found to be feasible, the proposed generating plant would be in the State of Florida, at a site yet to be determined.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project from Mr. Harry W. Wright, Manager, Seminole Electric Cooperative, Inc., P.O. Box 17100, Tampa, Florida 33682.

In order to be considered, proposals must be submitted by September 28, 1981, to Mr. Wright. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Seminole Electric Cooperative, Inc. and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with REA.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance 10.850–Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 25th day of August 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81–25245 Filed 8–27–81; 8:45 am]

BILLING CODE 3410–15–M

Vermont Electric Cooperative, Inc., Johnson, Vt.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22, (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $14 million to Vermont Electric Cooperative, Inc., Johnson, Vermont. These loan funds will be used to finance the construction of a 4.0 MW hydroelectric generating plant and associated facilities at the existing North Hartland Dam, on the Ottauquechee River in Windsor, County, Vermont.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project including engineering and economic feasibility studies and the proposed schedule for advances to the borrower from Mr. William J. Gallagher, Executive Manager, Vermont Electric Cooperative, Inc., School Street, Johnson, Vermont 05656.

In order to be considered, proposals must be submitted by September 28, 1981, to Mr. Gallagher. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Vermont Electric Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with REA.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance 10.850–Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 25th day of August 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81–25243 Filed 8–27–81; 8:45 am]

BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

[Order 81-8-131]

All Certified Carriers; Order Granting Exemption

AGENCY: Civil Aeronautics Board.

ACTION: Order 81-8-131, Order Granting Exemption.

SUMMARY: All certificated carriers are hereby exempted from the requirements of section 403 of the Act and Part 221 of the Board's Regulations (14 CFR Part 221) insofar as the enforcement of such provisions would require carriers to file tariffs stating charges and rules governing clubs and lounges. The complete text of this order is available, as noted below.

SUPPLEMENTARY INFORMATION: Copies of this order are available from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-25164 Filed 8-27-81; 8:45 am]

BILLING CODE 6320-01-M

Cochise Airlines, Inc.; Order Concerning Subsidy Mail Rates

Order 81-8-133, August 21, 1981, Docket 34808, proposes an amended final subsidy rate of $1,245,921 for the past period from December 4, 1978, through June 30, 1981, payable to Cochise Airlines, Inc., for service to Kingman, Prescott, and Winslow, Arizona, and Blythe, California.

The complete text of the order is available from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

By the Civil Aeronautics Board: August 21, 1981.

Phyllis T. Kaylor,

Secretary

[FR Doc. 81-25165 Filed 8-27-81; 8:45 am]

BILLING CODE 6320-01-M

Cochise Airlines, Inc.; Order Concerning Termination of Certificate Condition

Order 81-8-134, August 21, 1981, Docket 35035, proposes an amendment of Cochise Airlines' certificate to terminate the limitation on section 406 subsidy payments to Cochise.

Copies of the order are available from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-25166 Filed 8-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-8-122; Dockets 39869 and 39941]

Application of Texasamerican Airways, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 81-8-122), Docket 39869 and Fitness Investigation of Texasamerican Airways, Inc., Docket 39941.

SUMMARY: The Board is issuing an order in which it tentatively finds and concludes that it is consistent with the public convenience and necessity to grant the application of Texasamerican Airways, Inc., for a certificate authorizing the air transportation of persons, property and mail between and among 25 points. Certification is subject to a favorable determination of the applicant's fitness in the Texasamerican Airways Fitness Investigation (Docket 39941), instituted concurrently.

DATE: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file by September 4, 1981, a statement of objections together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

Persons wishing to file petitions to intervene in the Texasamerican Fitness Investigation shall file their petitions in Docket 39914 by August 31, 1981 and serve such filings on all persons listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 39819, application of Texasamerican Airways, Inc. for a certificate of public convenience and necessity

In addition, copies of such filings should be served on: Texasamerican Airways, Inc., the Mayors of Los Angeles, CA, San Francisco, CA, Seattle, WA, San Diego, CA, Las Vegas, NV, Albuquerque, NM, Austin, TX, Houston, TX, San Antonio, TX, New Orleans, LA, Oklahoma City, OK, Tulsa, OK, Minneapolis-St. Paul, MN, Chicago, IL, Detroit, MI, Cleveland, OH, Pittsburgh, PA, Columbus, OH, Indianapolis, IN, Milwaukee, WI, Miami, FL, Philadelphia, PA, Washington, D.C., New York, NY, Boston, MA, the managers of these cities' airports; the State Departments of Transportation or Aeronautics Commissions of California, Washington, Nevada, New Mexico, Texas, Louisiana, Oklahoma, Minnesota, Illinois, Michigan, Ohio, Pennsylvania, Indiana, Wisconsin, Florida, Washington, D.C., and New York and the Federal Aviation Administration. Service will also be made on any other persons filing objections.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Intravia, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-6068.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-8-122 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-8-122, the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-25163 Filed 8-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39941]

TexasAmerican Airways Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., August 21, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-25167 Filed 8-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39753]

United Air Lines, Inc.; Refund Practices; Enforcement Proceedings; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., August 20, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-25166 Filed 8-27-81; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 8:30 a.m. and will end at 5:30 p.m., on September 24, 1981, at the Richard B. Russell Federal Building, Auditorium, 75 Spring Street, N.W., Atlanta, Georgia 30303. The purpose of this meeting is to discuss the project on religious and racial bigotry and violence.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Clayton Sinclair, Jr., 5095 Dublin Dr., N.W., Atlanta, Georgia, (404) 439-3861, or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Ave., Room 362, (404) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 21, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-25174 Filed 8-27-81; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on September 28, 1981 at the Midwestern Regional Office of the Commission on Civil Rights, Room 3280, 230 S. Dearborn St., Chicago, IL 60604. The purpose of the meeting is to discuss and approve the format for a housing consultation to be sponsored by the Illinois Committee.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Miss Theresa F. Cummings, 2636 W. Lawrence Ave., Springfield, IL 62704, 217-536-8647, or the Midwestern Regional Office, 230 South Dearborn St., 32nd floor, Chicago, IL 60604, 312-353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 24, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-25175 Filed 8-27-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Alaska Department of Fish and Game; Issuance of Permit To Take Marine Mammals

On July 1, 1981, notice was published in the **Federal Register** (46 FR 34360), that an application had been filed with the National Marine Fisheries Service by the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801, for a Permit to take various species of pinnipeds for scientific research.

Notice is hereby given that on August 24, 1981, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a scientific research permit for the above taking to the Alaska Department of Fish and Game, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: August 24, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species National Marine Fisheries Services.

[FR Doc. 81-25260 Filed 8-27-81; 8:45 am]

BILLING CODE 3510-22-M

Foreign-Trade Zones Board

[Docket No. 12-81]

Foreign-Trade Zone No. 70, Detroit; Application for Special-Purpose Subzone

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc. (GDFTZ), grantee of Foreign-Trade Zone No. 70, requesting authority to establish a special-purpose subzone at Volkswagen of America's vehicle assembly plant in Sterling Heights, Michigan, adjacent to the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 24, 1981.

On July 21, 1981, the Board authorized GDFTZ to establish a foreign-trade zone project in the Detroit area consisting of general-purpose zone sites in downtown Detroit and Dearborn, and a subzone at the Ford tractor plant in Romeo, Michigan (Board Order 176, 46 FR 38941, 7-30-81). GDFTZ is a Michigan non-profit corporation affiliated with the City of Detroit and the Greater Detroit Chamber of Commerce which was incorporated in 1979 to assist the area's international trade through the establishment of a trade zone program. It is authorized to submit zone applications under Chapter 447, Act 154, Michigan Public Acts of 1963 (MSA 21.302 (1)).

The applicant proposes to establish a subzone for the new Sterling Heights plant of Volkswagen of America, Inc., located on Michigan Highway 53 at Metropolitan Parkway. The subzone would cover 103 acres within the 283-acre facility which was recently purchased by Volkswagen. The company is currently in the process of renovating the plant for the assembly of light trucks and autos from domestic and foreign components.

Zone procedures will allow Volkswagen to export finished vehicles without paying duties on foreign parts and materials. On its domestic auto sales, the company will be able to take advantage of the duty rate applicable to finished autos, which is lower than the rate for many components. A subzone was approved in 1978 for Volkswagen's first U.S. assembly plant in New Stanton, Pennsylvania. Zone status will assist the company in the development of the 4,000-worker assembly facility in Sterling Heights as the company continues to transfer assembly operations to the U.S. from abroad.

In accordance with the board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), International Trade Specialist, Foreign-Trade Zones Staff,

U.S. Department of Commerce, Washington, D.C. 20230; Louis A. Mezzano, District Director, U.S. Customs Service, Region IX, 477 Michigan Avenue, Detroit, Michigan 48226; and Colonel Robert V. Vermillion, District engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 30, 1981.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Federal Building, Room 445, 231 West Layfayette, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Streets, N.W., Room 2006, Washington, D.C. 20230

Dated: August 25, 1981.

John J. Da Ponte, Jr.,

Executive Secetary, Foreign-Trade Zones Board.

[FR Doc. 81-25209 Filed 8-27-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Level for Certain Man-Made Fiber Textile Products From Macau

August 25, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Establishing an import restraint level for man-made fiber coats in category 633/634/635 at a reduced level of 139,924 dozen during the agreement period which began on January 1, 1981. The original level was 194,924 dozen.

(1) Reducing by 55,000 dozen the import charges to the level of restraint previously established for cotton coats in Category 333/334/335.

These adjustments are the result of consultations relating to import data discrepancies in both categories.

[A detailed decription 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), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142) and May 5, 1981 (46 FR 25121)].

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau, the two governments have consulted on data discrepancies affecting cotton and man-made fiber textile products in Categories 333/334/335 and 633/634/635 and have exchanged notes agreeing to reduce the specific ceiling for man-made fiber coats in Categories 633/634/635 to 139,924 dozen and reduce the import charges in Category 333/334/335 by 55,000 dozen for the 1981 agreement year.

EFFECTIVE DATE: August 28, 1981.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 11, 1980 there was published in the **Federal Register** (45 FR 81643) a letter dated December 8, 1980, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established import restraint levels for certain cotton, wool and man-made fiber textile products, produced or manufactured in Macau, 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, 1981 and extends through December 31, 1981. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption or withdrawal from warehouse for consumption of man-made fiber coats in Categories 633/634/635 produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1981, in excess of 139,924 dozen and to deduct 55,000 dozen charged to the 1981 level for cotton coats in Category 333/334/335.

The level of restraint for Category 633/634/635 has not been adjusted to account for any imports after December 31, 1980. Imports during the period January-June 1981 have amounted to 41,403 dozen and will be charged. As the data become available, furhter charges will be made for the period which began on July 1, 1981 and extends to the effective date of this directive.

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 25, 1981.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 8, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Macau.

Effective on August 28, 1981, you are directed to amend the directive of December 8, 1980 to include in paragraph 1 a level of restraint for man-made fiber textile products in Category 633/634/635 of 139,924 dozen.[1]

You are further directed, effective on August 28, 1981, to deduct 55,000 dozen from the imports charged to the level of restraint established in the directive of December 8, 1980 for cotton textile products in Category 333/334/335, all of which should come from Category 334.

Textile products in Category 633/634/635 which have been exported to the United States prior to January 1, 1981 shall not be subject to this directive.

Textile products in Category 633/634/635 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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), August 12, 1980 (45 FR 53506) December 24, 1980 (45 FR 85142) and May 5, 1981 (46 FR 25121).

The actions taken with respect to the Government of Macau and with respect to imports of cotton and man-made fiber textile products from Macau 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.**

[1] The level of restraint has not been adjusted to account for any imports after December 31, 1980. During the January-June 1981 period imports in the Category have amounted to 41,403 dozen, of which 26,373 dozen should be charged to Category 634 and 15,030 dozen should be charged to Category 635.

Sincerely,

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-25270 Filed 8-27-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; 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 1981 a commodity to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 30, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: 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 opportunity 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 commodity and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1981, November 12, 1980 (45 FR 74836):

Class 6530

Urinary Drainage Set
6530-01-056-3659

SIC 0782

Grounds Maintenance
National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 81-25177 Filed 8-27-81; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1981 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 28, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicappped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 19, 1981 and March 13, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 32062 and 46 FR 16701) of proposed additions to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1981:

Class 3990

Pallet, Material Handling
3990-00-NSH-0008 (62" × 48")
(Requirements of the U.S. Postal Service, Western Area Supply Center Only)

Class 7920

Kit, Aircraft Cleaning
7920-00-490-6046

Class 7930

Rinse Additive, Dishwashing
7930-00-619-9575 (Increase from 60% to 100% of Government Requirements)

C. W. Fletcher,

Executive Director.

[FR Doc. 81-25178 Filed 8-27-81; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

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 Science and Technology Sub-Panel of the Chief of Naval Operations (CNO) Excutive Panel Advisory Committee will meet on September 24 and 25, 1981, from 9:00 a.m. to 5:00 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of autonomous weapons, mine warfare and related intelligence. These matters constitute classified information 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 Kathleen M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311. Telephone (703) 756-1205.

Dated: August 25, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-25225 Filed 8-27-81; 8:45 am]

BILLING CODE 3810-AE-M

Payment of Senior Executive Service Bonuses

The Department of the Navy will make Senior Executive Service bonus payments on or before September 30, 1981.

Dated: August 19, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-25211 Filed 8-27-81; 8:45 am]

BILLING CODE 3810-AE-M

Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DoN) announces the appointment of members to the DoN's eight Senior Executive Service (SES) Performance Review Boards. The purpose of the Boards is to provide fair and impartial review of the Senior Executive Service performance appraisals prepared by the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisors; to make recommendations to the Secretary of the Navy regarding

acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; and to make nominations for financial performance awards. Composition of particular Boards will be determined on an ad hoc basis from among those individuals listed below.

Department of the Navy Performance Review Board Membership

Mr. E. P. Angrist
Mr. O. R. Ashe
RADM J. A. Baldwin, USN
Mr. J. P. Banko
Mr. D. F. Barbe
RADM J. D. Beecher, USN
Dr. A. Berman
Mr. A. V. Bernard
Mr. W. E. Carroll
Mr. R. J. Cauley
RADM L. C. Chambers, USN
Mr. E. T. Comstock
Dr. R. E. Conley
Mr. R. H. Conn
RADM D. L. Conner, CEC, USN
RADM D. L. Cooper, USN
Mr. E. D. Cooper
Mr. C. B. Cox
Mr. W. Cox
Mr. J. L. Crone
Mr. T. F. Curry
Mr. F. Davidson III
Mr. G. C. Dilworth
Dr. A. J. DiMascio
RADM N. P. Ferraro, SC, USN
Mr. H. L. Fleck
Mr. R. M. Forssell
RADM S. D. Frost, SC, USN
RADM A. A. Giordano, SC, USN
Dr. R. R. Goodman
Mr. E. C. Grayson, Jr.
Mr. J. B. Grosson
Mr. N. W. Guinard
RADM W. A. Gureck, USN
Mr. R. L. Haas
Dr. R. K. Lobb
BGEN A. Lukeman, USMC
Dr. R. J. Lundegard
Mr. J. A. Macmillan
Mr. P. J. Mantle
Dr. N. McAllister
RADM J. C. McArthur
Mr. C. C. McClelland
CAPT J. A. McMorris II, USN
Mr. R. E. Metrey
Mr. J. H. Mills
Mr. G. Minter
RADM J. B. Mooney, Jr., USN
CAPT J. B. Morris, USN
Mr. T. R. Muir
Mr. H. J. Nathan
Mr. C. P. Nemfakos
Mr. H. O'Neill
Dr. G. S. Blevins
CAPT W. T. Boyer, Jr., USN
Mr. J. Brown
Mr. J. B. Buescher
Mr. F. J. Burchfield
RADM J. B. Busey, USN
Mr. G. A. Cann
Mr. V. S. Carberry
Mr. J. Hague
Mr. K. B. Hancock
Mr. J. W. Hardman
Dr. E. Y. Harper
Mr. B. W. Hays
CAPT E. E. Henifin, USN
Mr. W. M. Hewitt
Mr. J. Heyl
Mr. R. M. Hillyer
Mr. A. W. Himes
RADM T. M. Hopkins, USN
RADM T. J. Hughes, USN
RADM D. M. Jackson, USN
Dr. T. A. Jacobs
RADM R. D. Johnson, USN
Dr. G. B. Joiner
Mr. G. Keightley
Mr. W. W. KinKead
Mr. E. T. Kinney
Mr. N. Kobitz
RADM L. S. Kollmorgen, USN
Mr. V. S. Kupelian
Dr. A. F. Kwitnieski
Mr. J. H. Lannen
Mr. H. B. Latimer
Dr. J. Lawson
RADM J. R. Lewis, USN
Dr. H. Rabin
Mr. W. G. Rae
Mr. R. D. Ramirez
Ms. L. G. Ratto
Mr. J. Reed
Mr. E. J. Regan
Mr. D. W. Rehorst
Mr. D. N. Reyes
Mr. R. R. Rojas
Mr. J. C. Saia
Dr. E. I. Salkovitz
RADM L. R. Sarosdy, USN
Dr. A. I. Schindler
Dr. J. R. Schmidt
Dr. D. Schultzer
Mr. R. L. Shaffer
Dr. F. Shoup
Mr. M. K. Simmons
Dr. J. A. Painter
Mr. P. M. Palermo
Mr. F. A. Phelps
CAPT G. T. Phelps, USN
Mr. J. A. Pond
Dr. A. Powell
RADM C. O. Prindle, USN
Dr. J. H. Probus
Dr. C. N. Pryor
Mr. R. D. Thomas
BGEN W. H. J. Tiernan
Mr. C. J. Turnquist
Mr. R. G. Urban
Mr. R. S. Vaughn
Mr. V. J. Walls
RADM J. H. Webber, USN
RADM H. N. Wellman, USN
Mr. W. H. Singleton
Dr. A. L. Slafkosky
Dr. J. A. Smith
Mr. W. H. Speck
Mr. F. Sterns
Mr. F. W. Swofford
Mr. O. L. Talbot
Mr. W. T. Tarbell
Mr. J. K. Taussig, Jr.
Dr. G. Westerhout
Mr. H. J. Wilcox
Mr. W. J. Wilkin
RADM J. B. Wilkinson, USN
RADM A. D. Williams, USN
RADM J. G. Wissler, USN
Mr. P. E. Zanfagna, Jr.

For additional information, contact: Mrs. Sue Martin, Head, Executive Personnel Section (OP-142D), Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, Telephone No. (202) 694-5760.

Dated: August 21, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 81-25210 Filed 8-27-81; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Fletcher Oil and Refining Company, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a Consent Order issued as signed.

DATES: Effective date: June 1, 1981. Issue date: August 13, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley S. Mills, Program Manager for Entitlements, Office of Enforcement, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3548.

SUPPLEMENTARY INFORMATION: On July 10, 1981, 46 FR 35727 (1981), the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a Consent Order with Fletcher Oil and Refining Company, Inc. on June 1, 1981, which was made effective immediately because the Office of Enforcement of the ERA deemed it necessary in the public interest under the terms of 10 CFR 205.199J(b). Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order.

Although interested persons were invited to submit comments regarding the Consent Order, no comments were received. The Consent Order has therefore been issued as signed.

Issued in Washington DC on the 24 day of August, 1981.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

[FR Doc. 81-25145 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Geer Tank Trucks, 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.

DATES: Effective date: August 19, 1981. Comments by: September 28, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 19, 1981, the Office of Enforcement of the ERA executed a Consent Order with Geer Tank Trucks, Inc. (Geer) of Jacksboro, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Geer wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Geer effective as of the date of its execution by the DOE and Geer.

I. Consent Order

Geer, with its home office in Jacksboro, 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, Parts 210, 211, and 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Geer entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil resales by Geer. The significant terms of the Consent Order with Geer are as follows:

1. This Consent Order concerns the sale of certain volumes of crude oil sold by Geer during the period November 1973 through January 27, 1981 and is intended by Geer and DOE to resolve only those matters set forth in this Consent Order.

2. Geer allegedly applied the provisions of 10 CFR, Part 212, Subpart L incorrectly when determining the prices to be charged for certain domestic crude oil.

3. The Consent order constitutes neither an admission by Geer that DOE regulations have been violated nor a finding by the DOE that Geer has violated DOE regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Geer 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.1. above, the sum of $5,000 including interest, on or before 30 days after the effective date of this Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Director, Office of Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount 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).

DOE and Geer agree to compromise and settle all civil penalties which might have been asserted by the DOE for the matters covered by this Consent Order. This compromise and settlement consists of the tender by Geer of a certified check made payable to the Department of Energy in the amount of $1,000. Payment shall be made within thirty (30) days of the effective date of this Consent Order to the address in the above paragraph.

III. Submission of Written Comments

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 claim 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.

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 Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent order by writing to the same address or by calling 214/767-7745.

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 Geer Tank Trucks, Inc.'s Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on or before September 28, 1981. 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 Dallas, Texas on the 19th day of August, 1981.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 81-25150 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Newhall Refining Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a Consent Order issued as signed.

DATES: Effective date: June 15, 1981. Issue date: August 13, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley S. Mills, Program Manager for Entitlements, Office of Enforcement, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3548.

SUPPLEMENTARY INFORMATION: On July 10, 1981, 46 Fed. Reg. 35729 (1981), the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a Consent Order with Newhall Refining Company, Inc. on June 15, 1981, which was made effective immediately because the Office of Enforcement of the ERA deemed it necessary in the public interest under the terms of 10 CFR 205.199J(b). Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order.

Although interested persons were invited to submit comments regarding the Consent Order, no comments were received. The Consent Order has therefore been issued as signed.

Issued in Washington, D.C. on the 24th day of August, 1981.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

[FR Doc. 81-25146 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Southern Union Co., and Its Subsidiary, Southern Union Refining Co.; 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.

EFFECTIVE DATE: August 10, 1981. Comments by: September 28, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 10, 1981, the Office of Enforcement of the ERA executed a Consent Order with Southern Union Company of Dallas, Texas and its subsidiary Southern Union Refining Company (collectively, Southern Union) of Hobbs, New Mexico. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of $500,000 or less in the aggregate excluding penalties and interest, becomes effective upon its execution. Because the DOE and Southern Union wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Southern Union effective as of the date of its execution by the DOE and Southern Union.

I. The Consent Order

Southern Union, with its home office located in Dallas, Texas, is a firm engaged in crude oil refining, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 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 Southern Union the Office of Enforcement, ERA, and Southern Union entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order, is entered into between the Economic Regulatory Administration of the Department of Energy and Southern Union Company of Dallas, Texas, and its subsidiary Southern Union Refining Company of Hobbs, New Mexico, and certain predecessors in interest to the subsidiary: Famariss Oil Corporation; Famariss Oil & Refining Company; Southern Union Oil Products Company; and Southern Union Production Company (collectively, "Southern Union"). This Consent Order, entered into pursuant to the provisions of 10 CFR Section 205.199J, settles certain civil claims and disputes with respect to the prices charged in sales of all covered products, except first sales and resales of crude oil, if any, ("certain products") during the period August 19, 1973 through January 27, 1981 (the "settlement period").

2. The DOE conducted an audit of Southern Union for the settlement period for compliance with the pricing regulations of 6 CFR Part 150, Subpart L; 10 CFR Part 212, Subparts A, E, H, I, J and K in the sale of certain products; and compliances with the Domestic Crude Oil Entitlements Program regulations of 10 CFR Part 211, Subpart C. As a result of the audit, the DOE believes that Southern Union may have sold certain products at prices in excess of maximum allowable prices, in violation of 6 CFR 150.351 *et. seq.* and 10 CFR 212.82 and 212.83.

3. Southern Union believes that it correctly construed and applied the applicable regulations and that maximum allowable prices were not exceeded. Nevertheless, in order to avoid the expense of protracted litigation and disruption of its orderly business functions, Southern Union, without admitting any noncompliance with or violation of any DOE regulation agrees to enter this Consent Order. The DOE has determined that the public interest would best be served if a settlement under the Consent Order with Southern Union is achieved. The settlement does not extend to any entity or subsidiary of Southern Union other than those identified in paragraph I.1 above. Further, this Consent Order does not cover crude oil production or reselling activities, if any, of Soutern Union.

4. Southern Union agrees to refund, in full settlement of any and all civil liability within the jurisdiction of the Department of Energy in regard to actions that might be brought by the Department of Energy arising out of the transactions covered hereby during the settlement period the total sum of $420,000, including interest, as follows:

a. Within 90 days of the effective date of this Consent Order, Southern Union will deliver a certified check in the sum of $220,000 made payable to the United States Department of Energy.

b. Commencing as of the effective date of this Consent Order, Southern Union will issue credit memoranda to the Defense Fuel Supply Center ("the DFSC") totaling $200,000, at a rate of $.42 per barrel for jet fuel thereafter delivered to the DFSC, provided that if the sum of such credits shall not have reached $200,000 by a date not more than 90 days from the effective date of this Consent Order, Southern Union will pay to the DFSC the full balance due on such date.

II. Disposition of Refunded Overcharges

In this Consent Order, Southern Union 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.1. above, the sum of $420,000 in the manner specified in I.4. above. Refunded overcharges will be in the form of certified checks 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 the determination of their proper disposition.

The DOE intends to distribute the refund amounts 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 sufferd 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 (Entitlement) 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).

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 being required. Written notification of 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 Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

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 the Southern Union Consent Order". We will consider all comments we received by 4:30 p.m., local time, September 28, 1981. 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 Dallas, Texas on the 20th day of August, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-25149 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Texas Oil & Gas Corp.; Final Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on a consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy announces final action of a Consent Order.

EFFECTIVE DATE: August 28, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District Enforcement, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

SUPPLEMENTAL INFORMATION: On June 24, 1981 the ERA of the DOE executed a Proposed Consent Order with Texas Oil & Gas Corp. of Dallas, Texas and a **Federal Register** Notice was published on July 7, 1981. Under 10 CFR § 205.199J(c), a Proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the Proposed Order. At the conclusion of the thirty-day comment period, the ERA had received seven notices of claims against the refund amount of the Consent Order and there were no objections received to the Consent Order. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and Texas Oil & Gas Corp. is an appropriate resolution of the compliance proceeding which it described and it shall become final and effective as proposed, without modification, August 28, 1981.

Issued in Dallas, Texas on the 18th day of August, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-25148 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement Between European Atomic Energy Community and U.S.

Pusuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 10 milligrams of plutonium-241, 10 grams of uranium-238, and 5 grams of uranium-235 to the United Kindom Atomic Energy Authority. The plutonium-241 will be used for half life measurements. The uranium-238 and uranium-235 will be used for fission foils in a new accelerator. Contract Number S-EU-693 has been assigned to this transaction.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner then September 14, 1981.

Dated: August 24, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-25151 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement Between European Atomic Energy Community and U.S.

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 30.69 kilograms of uranium, containing 6.0 kilograms of U-235 (19.9% enrichment) to CERCA, France, for fabrication of fuel elements for research and test reactors. The fuel elements are to be irradiated in France, the Netherlands, and in the United States in connection with the Reduced Enrichment Research and Test Reactor (RERTR) program.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner then September 14, 1981.

Dated: August 24, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-25152 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangements Between European Atomic Energy Community and United States

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S-EU-695, to the Research Laboratory for Archaeology, the United Kingdom, 0.115 gram of uranium, and 0.05 grams of thorium, to be used as standard reference material.

Contract Number S-EU-699, 29.895 grams of uranium, and 5.35 grams of thorium, to be used for standard reference material by the Department of Industry, the United Kingdom.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 14, 1981.

Dated: August 24, 1981.

For the Department of Energy.

Fred McGoldrick,

Deputy Director, Office of Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-25153 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement Between European Atomic Energy Community and U.S.

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 10 milligrams of plutonium-244 and 10 milligrams of protactinium-231 to France, for use in neutron capture gamma ray measurements. These materials will be returned to the United States upon completion of the experiments.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials, under Contract Number WC-EU-216, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 14, 1981.

For the Department of Energy.

Dated: August 24, 1981

Fred McGoldrick,

Deputy Director, Office of Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-25181 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of June 29 through July 3, 1981

During the week of June 29 through July 3, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

APPEALS

Bracewell and Patterson, 7/2/81, BFA-0688

Bracewell & Patterson filed an Appeal from a denial by the Director of the Division of Freedom of Information and Privacy Acts Activities of a request for a waiver of search and copying fees of approximately $3,000, which the firm had submitted in connection with a request for information under the Freedom of Information Act. In considering the Appeal, the DOE found that the firm had not shown that furnishing the requested information would primarily benefit the public. The DOE further found that the firm's contention that Section 552(a)(2)(B) of the FOIA requires that the requested documents be placed in a public reading facility was premature because a determination regarding the releasibility of the documents had not yet been issued and that in a subsequent appeal of such a determination the firm may request that we direct the agency to reimburse the firm for fees paid. Accordingly, the firm's Appeal was denied.

Marathon Oil Company, 7/1/81, DEA-0668, DST-0668, DES-0668

Marathon Oil Company filed an Appeal of an Order for the Redirection of Product which the Economic Regulatory Administration's Region IV Office had issued to the firm on June 25, 1979 pursuant to the provisions of 10 CFR 211.107. In considering the Appeal, the DOE determined that the Redirection Order lacked a sufficient factual basis to comply with the requirements of 10 CFR 205.36 and, therefore, should be rescinded. Accordingly, the Appeal was granted. Marathon Oil Company also filed Applications for Stay and Temporary Stay of the provisions of the Redirection Order. In light of the DOE's determination with respect to the firm's Appeal, the Applications for Stay and Temporary Stay were dismissed.

Pro Force Guards (A-76) (Yalman), Los Alamos Protective Force (Medlin), Joseph L. Menzel, American Federation of Government Employees, 6/30/81, BAA-0681, BAA-0686, BAA-0687, BAA-0691

Pro Force Guards (A-76) (Yalman), the Los Alamos Protective Force, Joseph L. Menzel, and the American Federation of Government Employees filed Appeals from a determination by the DOE Albuquerque Operations Office pursuant to Office of Management and Budget Circular No. A-76, which permitted the Los Alamos Scientific Laboratory to provide physical security for the Laboratory by contract with the private sector rather than through the continued use of a guard force of federal employees. In considering the Appeals, the DOE found that Albuquerque Operations had used correctly the method set forth in A-76 to compare the cost of private contracting with the cost of the federal force. The DOE also found that the guard force was not performing an inherently governmental function and thus Albuquerque Operations could lawfully make the cost comparison. Accordingly, the Appeals were denied.

REMEDIAL ORDERS

Boutin, Norman, 7/1/81, BRO-1136

Mr. Norman Boutin objected to a Proposed Remedial Order which the Northeast District Office of Enforcement issued to him on January 30, 1980. In the Proposed Remedial Order, the Northeast District found that Mr. Boutin had made retail sales of motor gasoline at prices which exceeded his maximum lawful selling prices. In considering Mr. Boutin's objections, the DOE found that the Proposed Remedial Order contained no findings regarding Mr. Boutin's alleged compliance with the refund provisions of a Consent Order executed by Mr. Boutin and the DOE which covered the same audit period as the Proposed Remedial Order. The DOE therefore concluded that the Proposed Remedial Order should be rescinded.

Moraga Shell, Moraga Union, 6/30/81, BRO-1088, BRO-1089

Moraga Shell and Moraga Union objected to Proposed Remedial Orders that the Western District Office of Enforcement issued to the firms on January 25, 1980. In the

Proposed Remedial Orders, the Western District found that the firms had charged its retail motor gasoline customers higher prices than those permitted by 10 CFR 212.93(a)(2) and charged a cents-per-gallon fee for services associated with the sale of motor gasoline in violation of 10 CFR 210.62(d). In considering the firms' objections, the DOE found that the firms had violated the foregoing regulations. The DOE therefore concluded that the Proposed Remedial Orders should be issued as final Remedial Orders. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Requests for Modification and/or Rescission

Laketon Asphalt Refining, Inc., 7/1/81, BYR-0130

Laketon Asphalt Refining, Inc. filed a Motion for Reconsideration of a Supplemental Order issued by the Office of Hearings and Appeals on April 20, 1981 which determined that the firm had received excessive exception relief from its entitlements obligations for the 1977 fiscal year. In its Motion, the firm objected to the DOE's method of netting the firm's purchase obligations against its sales obligations to arrive at its net entitlement purchase obligation. In considering the request, the DOE found that the netting method in question has been utilized consistently since the inception of the Entitlements Program. Accordingly, Laketon's Motion was denied.

Laketon Asphalt Refining, Inc., 7/1/81, BRY-0136

Laketon Asphalt Refining, Inc., filed a Motion for Reconsideration of a Supplemental Order issued by the Office of Hearings and Appeals on April 22, 1981 which determined that the firm had not received sufficient exception relief from its entitlement obligations for its fiscal year 1979 and, therefore, reduced its entitlement obligation for that year by an additional $248,520. In considering the firm's Motion, the DOE found that the calculation of exception relief for fiscal year 1979 had been based on an incorrect entitlement price for December 1979. The DOE determined, therefore, that the April 22, 1981 Supplemental Order should be rescinded and the firm's entitlement obligation for its fiscal year 1979 reduced by $248,951. Accordingly, the Motion was granted.

Requests for Exception

Brennan Oil and Heating Company, Inc., Allee Oil Company, 7/2/81, BEE-1629, BEE-1636

Brennan Oil and Heating Company, Inc. and Allee Oil Company filed Applications for Exception in which the firms requested that they be relieved of the requirement to file Form EIA-9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firms had failed to demonstrate that they will suffer a gross inequity or serious hardship as a result of the reporting requirement. Accordingly, exception relief was denied.

Golden Gate Petroleum Company, 7/1/81, BEE-1644

Golden Gate Petroleum Company filed an Application for Exception in which the firm sought to be relieved of its obligation to prepare and file Form EIA-9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firm had filed to demonstrate that it will suffer a gross inequity or serious hardship as a result of the reporting requirement. Accordingly, exception relief was denied.

Ralph E. Moore, Inc., 7/1/81, BEE-1646

Ralph E. Moore, Inc. filed an Application for Exception in which the firm requested that it be relieved of the requirement that it file Form EIA-9A, the No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firm had failed to demonstrate that it will suffer a gross inequity or serious hardship as a result of the reporting requirement. Accordingly, exception relief was denied.

Shell Oil Company, 6/30/81, BEE-0889, BEE-1307

Shell Oil Company filed two Applications for Exceptions from the provisions of 10 CFR Part 212, Subpart D, in which the firm sought permission to establish the base production control level and to calculate the volumes of imputed stripper and upper tier crude oil produced from the North Hobbs and the South Wasson Units in a manner different than set forth in § 212.75. In considering the exception requests, the DOE found that the application of the provisions of § 212.75 to the firm's North Hobbs and South Wasson Units does not result in a gross inequity and that the firm had failed to provide any other basis that would warrant the approval of exception relief. Accordingly, exception relief was denied.

Motion for Evidentiary Hearing

Ven-Fuel, Inc., 7/2/81, BRH-1274, BRD-1274

Ven-Fuel, Inc. filed Motions for Evidentiary Hearing and Discovery in connection with a Proposed Remedial Order (PRO) proceeding before the Office of Hearings and Appeals. In its Motion for Evidentiary Hearing, Ven-Fuel requested an evidentiary hearing to explain and document its position with respect to issues raised in its Statement of Objections. In considering the request, the DOE found that the firm had not established with the required specificity that disputed issues of fact exist which could best be resolved at an evidentiary hearing, as required by 10 CFR 205.199. Accordingly, the Motion for Evidentiary Hearing was denied. In its Motion for Discovery, the firm sought the depositions of two ERA officials as well as all agency audit records, correspondence and memoranda related to the ERA's enforcement activities with respect to the firm. In considering the request, the DOE found that the firm had not shown that depositions were necessary to supplement the existing record in the proceeding as required by 10 CFR 205.198. The DOE also found that the firm had not established that its requests for documents were necessary to resolve factual disputes arising from the ERA's allegations, to supplement deficiencies in the PRO's factual bases, or to investigate a demonstrated abuse of prosecutorial discretion and that, therefore, such requests did not meet the standard set forth in 10 CFR 205.198. Accordingly, the Motion for Discovery was denied.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Glaser Gas, Inc., BRS-1316
Natchez Refining, Inc., BEE-1548

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Thomas O. Mann,

Acting Deputy Director, Office of Hearings and Appeals.

August 21, 1981.

[FR Doc. 81-25182 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Objections to Proposed Remedial Orders Filed Week of August 10, Through August 14, 1981

During the week of August 10 Through August 14, 1981, the notices of objections to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before September 17, 1981. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals,

Department of Energy, Washington, D.C. 20461.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

August 21, 1981.

Exxon Corp., New York, NY, BRO-1461

On August 14, 1981, Exxon Corporation, 1251 Avenue of the Americas, New York, NY 10020 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel for Compliance issued to the firm on July 2, 1981.

In the PRO the Office of Special Counsel found that during September 1973 to May 1979, Exxon sold crude oil if produced at prices exceeding the ceiling price levels set forth in the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart D.

Accordingly to the PRO the Exxon violation resulted in $5,691,039 of overcharges.

[FR Doc. 81-25147 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel

Farmland Industries, Inc.; Proposed Consent Order

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of Special Counsel (OSC) hereby gives the notice required by 10 CFR § 205.199J that it has entered into a Consent Order with Farmland Industries, Inc. (Farmland). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations (DOE Regulations) for the period March 6, 1973 through December 31, 1980. In settlement of all issues, although there is no admission or finding of violation of DOE Regulations, Farmland agrees to $1 million in refunds.

As required by the regulations cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or issue the Consent Order as proposed.

DATES: Comments: To be considered, comments must be received by 5:00 p.m. on September 28, 1981. Address comments to: Farmland Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Mail Stop 4111, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9165.

Copies of the Consent Order may be received free of charge by written request to: Farmland Consent Order Requests, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Mail Stop 4111, Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E-190.

SUPPLEMENTARY INFORMATION: Farmland is one of the 34 major refiners presently subject to audit by OSC to determine compliance with the DOE Regulations. Farmland engages in, among other things, the production, refining, processing, reselling and marketing of products. An audit conducted by OSC included a review of Farmland's records relating to compliance with the DOE Regulations during the period March 6, 1973 through December 31, 1980 (the audit period). During the audit, questions and issues were raised. This Consent Order resolves all civil issues not previously resolved concerning the allocation and sale of covered products during the audit period.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Farmland's compliance with the applicable DOE Regulations pertaining to, among other things, the production, refining, processing, reselling and marketing of covered petroleum products. OSC's audit, now concluded, encompassed a review of Farmland's pricing and allocation policies and procedures, and the manner in which Farmland applied the DOE Regulations with respect to, among other things, its refining, processing, reselling, and marketing of covered petroleum products during the period of the Consent Order. At the conclusion of the audit, OSC raised certain issues with respect to Farmland's application of the DOE Regulations; however, Farmland and DOE have agreed to resolve all matters whether or not raised by the audit or heretofore asserted by either party.

Neither OSC nor Farmland has retreated from the positions taken previously on the issues addressed by this Consent Order and each believes that its positions on these issues are meritorious. Notwithstanding DOE's position to the contrary, Farmland maintains that it has correctly construed and applied the regulations. The parties desire to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and conclusion of the audit of Farmland and thus, the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

OSC has determined that the issues raised in the audit of Farmland could be appropriately resolved in the following manner: Farmland, a farm supply cooperative, will make payments totalling $1 million to its members, $500,000.00 to members purchasing motor gasoline and $500,000.00 to members purchasing propane. Farmland will distribute the refunds based on the members' purchases in the period September 1977 through August 1980. That amount, based on the volumetric proportion of each member's purchases, will be distributed in conjunction with Farmland's 1981 patronage refunds.

The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. Upon becoming final after consideration of public comments, the order will be a final order of DOE to which Farmland has waived its right to an administrative or judicial appeal. The Consent Order settles only issues between DOE and Farmland and does not affect the rights, if any, of customers to bring actions against the company.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on September 28, 1981, will be considered by OSC before determining whether to adopt the Consent Order as a final order. Modifications of the Consent Order which, in the opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., August 20, 1981.

Avrom Landesman,

Acting Special Counsel.

[FR Doc. 81-25144 Filed 8-27-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-1923-8]

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities (A-104), Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR part 1506.9) during the week of August 17, 1981 to August 21, 1981.

REVIEW PERIODS: The 45-day review period for draft EISS; listed in this notice is calculated from August 28, 1981 and will end on October 12, 1981. The 30-day review period for final EISS, as calculated from August 28, 1981 will end on September 28, 1981.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. If a Federal agency does not have the EIS available upon request you may contact the office of Federal activities, EPA, for further information. Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Federal Activities, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

Dated: August 25, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A-104).

Department of Agriculture

FS: Draft—Devers-Serrano-Villa Park Transmission Project, Orange and Riverside Counties, California (EIS order No. 810668).

SCS: Draft—Waimanalo Watershed Water Resources Plan, Honolulu County, Hawaii; the review period for this EIS has been extended until October 17, 1981 (EIS order No. 810670).

Extension: SCS: Final—Wheeling Creek Watershed Project, Pennsylvania and West Virginia—published FR July 10, 1981—the review period for this EIS has been extended until September 8, 1981 (EIS order No. 810521).

Army Corps of Engineers

Final—Oates Creek Flood Control Project, Savannah River Basin, Richmond County, Georgia (EIS order No. 810660).

Final—Swatara Creek Local Flood Protection Project, Schuylkill County, Pennsylvania (EIS order No. 810675).

Final—Olomana-Manuawili Sewer Discharge Permit, Honolulu County, Hawaii (EIS order No. 810688).

Final Supplement—Neches River and Tributaries Saltwater Barrier, Jefferson County, Texas (EIS order No. 810677).

Department of Commerce

NOAA: Final—Wading River Estuarine Sanctuary, Grant, Burlington County, New Jersey (EIS order No. 810678).

NOAA: Final—Tijuana River Estuarine Sanctuary, Grant, San Diego County, California (EIS order No. 810679).

Department of Housing and Urban Development

Draft—Spring Creek Housing Development, Mortgage Insurance, Big Horn County, Montana (EIS order No. 810664).

Draft—Isla Mar Development, Mortgage Insurance, Humacao, Puerto Rico (EIS order No. 810683).

Department of the Interior

BLM: Draft—El Malpais Wilderness Area Study, Cibola County, New Mexico; the review period for this EIS has been extended until October 30, 1981 (EIS order No. 810669).

BLM: Final—Northern Idaho Grazing Management Program, Idaho (EIS order No. 810667).

BIA: Final—AK-Chin Water Supply Project, Maricopa and Pinal Counties, Arizona (EIS order No. 810685).

GS: Draft—Cache Creek-Bear Thrust Oil and Gas Drilling, Teton County Wyoming; the review period for this EIS been extended until October 19, 1981 (EIS order No. 810663).

NPS: Final—Shiloh National Military Park General Management Plan, Hardin County, Tennessee (EIS order No. 810680).

Extension: BLM: Final—Coal Slurry Pipeline Transportation Project, Wyoming, South Dakota, Colorado, Nebraska, Kansas and Louisiana—published FR July 17, 1981—the review period for this EIS has been extended until September 16, 1981 (EIS order No. 810539).

Environmental Protection Agency

EPA1: Final—Falmouth Wastewater Treatment Facilities, Barnstable County, Massachusetts (EIS order No. 810673).

EPA2: Draft Supplement—Hudson River PCB Reclamation Demonstration Project, Dutchess, Rockland and Washington Counties, New York (EIS order No. 810684).

EPA3: Final—Buckingham Wastewater Treatment Facilities, Bucks County, Pennsylvania (EIS order No. 810689).

EPA4: Final—Mammoth Cave Area Wastewater Treatment Facilities, Hart County, Kentucky (EIS order No. 810681).

Department of Transportation

FHWA: Draft—Potomac Yards Bridge and Approaches Replacement, Fairfax County, Virginia (EIS order 810662).

FHWA: Draft—Pio Nono Avenue Widening, Bibb County, Georgia (EIS order No. 810665).

FHWA: Draft—US 24/Quincy Memorial Bridge, Mississippi River, Missouri and Illinois (EIS order No. 810686).

FHWA: Final—TN-92/Dumplin Valley Road, Jefferson County, Tennessee (EIS order No. 810674).

FHWA: Final—IN-17 Improvement, IN-10 to US 30, Marshall County Indiana (EIS order No. 810661).

FHWA: Final—Montage Access Road, I-81 to Montage Recreation Area, Lackawanna County, Pennsylvania (EIS order No. 810666).

FHWA: Final—Franklin Bypass, TN-6 to TN-106, Williamson County, Tennessee (EIS order No. 810676).

FHWA: Final—I-8/CA-125 Interchange, San Diego County, California (EIS order No. 810682).

FHWA: Final—Jamestown Bridge Replacement, Washington and Newport Counties, Rhode Island (EIS order No. 810687).

UMTA: Draft—Guadalupe Corridor Transportation Improvement, Santa Clara Counties, California (EIS order No. 810672).

Reestablishment of EIS Availability Date: FHWA: Final—Old Red Trail Improvement, Morton County, North Dakota—based on the actual availability of this EIS, EPA has reestablished the date filed as August 11, 1981 and the end of the review period as September 21, 1981 (EIS order No. 810572).

Ohio River Basin Commission

Final—Cumberland River Basin Regional Water and Land Resources Plan, Kentucky and Tennessee (EIS order No. 810671).

[FR Doc. 81-25259 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-37-M

[OPP-50545; PH-FRL-1922-3]

Pesticides; Issuance of Experimental Use Permits; Dow Chemical USA, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

464-EUP-67. Dow Chemical USA, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 1,002 pounds of the herbicide 3,6-Dichloro-2-pyridinecarboxylic acid as the monoethanoloamine salt on rangeland and permanent grass pastures to evaluate control of mesquite, associated woody species, and weeds. A total of 2,000 acres are involved. The program is authorized only in the States of New Mexico and Texas. The experimental use permit is effective from June 1, 1981 to May 1, 1983. Temporary tolerances for residues of the active ingredient in or on forage grass, forage grass hay, kidney of cattle, horses, and sheep and the meat, fat, and meat byproducts of cattle, horses, and sheep have been established. (Richard Mountfort, PM 23, Rm. 412D, CM No. 2, (703-557-7070))

1471-EUP-74. Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 50 grams of the rodenticide *N*-methyl-2,4-dinitro-*N*-(2,4,6-tribromophenyl)-6-(trifluromethyl)benzenamine in and around buildings and structures to evaluate control of rats and mice. A total of 16 sites are involved. The program is authorized only in the States of Alabama, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, and Washington. The experimental use permit is effective from June 5, 1981, to June 5, 1982. (William Miller, PM 16, Rm. 403, CM No. 2, (703-557-7040))

10181-EUP-22. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. This experimental use permit allows the use of 4.125 pounds of the insecticide permethrin on cotton to evaluate control of cotton insects. A total of 2,200 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from April 1, 1981 to April 1, 1983. Permanent tolerances for residues of the active ingredient in or on cottonseed have been established (40 CFR 180.378). (Franklin Gee, PM 17, Rm. 401, CM No. 2, (703-557-7028))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: August 20, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-25206 Filed 8-27-81; 8:45 am]

BILLLING CODE 6560-32-M

[OPTS-59056A; TSH-FRL-1921-7]

Toxic Substances; 1,1-Methylenebis[4-Isocyanatocyclohexane], Polymer With 1,3-Benzenedicarboxylic Acid, Polymer With Substituted Alkane and 2-Ethyl-2-(Hydroxymethyl)-1,3-Propanediol; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA received an application for a test marketing exemption (TM-81-21) under Section 5 of the Toxic Substances Control Act (TSCA) on July 2, 1981. Notice of receipt of the application was published in the **Federal Register** of July 23, 1981 (46 FR 37964). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on August 21, 1981.

FOR FURTHER INFORMATION CONTACT: Carrie E. Berlin, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460 (202-426-8815).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, anyone who intends to manufacture in, or import into the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with Section 5(d) and any applicable requirement of Section 5(b). Section 5(d)(1) defines the contents of a PMN and Section 5(b) contains additional reporting requirements of certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of Section 5. In particular, Section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of Section 5(a) or Section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under Section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose retrictions on the test marketing activities.

On July 2, 1981, EPA received an application for an exemption from the requirements of Sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-21. The manufacturer claimed his identity, the chemical identity, the production volume, and process information as confidential business information under Section 14 of TSCA. The substance, generically identified as 1,1-

methylenebis [4-isocyanatocyclohexane], polymer with 1,3-benzene dicarboxylic acid, polymer with substituted alkane and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, is to be used as a web coating. The substance will be manufactured for test marketing purposes during a test marketing period not to exceed one year. A notice published in the Federal Register of July 23, 1981 (46 FR 37964) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-21 under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment for the reasons explained below. There were no significant health or environmental concerns for the TME substance. The product will be manufactured in a closed system. During manufacture and industrial use, eight workers may be exposed to the TME substance for a maximum total of 32 hours during the entire test marketing period. There was some concern about irritation to the eye and skin; the Agency believes proper handling will insure negligible contact. There will be no consumer exposure to the TME substance in its final form, and no environmental release of the substance is expected.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) as specified in the application, and of the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of one year commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-25202 Filed 8-22-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59056B; TSH-FRL—1921-8]

Toxic Substances; 1, 3 Benzenedicarboxylic Acid, Polymer with Substituted Alkane and 2-Ethyl-2-(Hydroxymethyl)-1, 3 Propanediol; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-22) under Section 5 of the Toxic Substances Control Act (TSCA) on July 2, 1981. Notice or receipt of the application was published in the Federal Register of July 23, 1981 (46 FR 37964). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on August 21, 1981.

FOR FURTHER INFORMATION CONTACT: Carrie E. Berlin, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirement of Section 5(b). Section 5(d)(1) defines the contents of a PMN and Section 5(b) contains additional reporting requirements of certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of Section 5. In particular, Section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of Section 5(a) or Section 5(b) and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under Section 5(h)(6) the Agency must publish a notice of this disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On July 2, 1981, EPA received an application for an exemption from the requirements of Sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-22. The manufacturer claimed his identity, the chemical identity, the production volume, and process information as confidential business information under section 14 of TSCA. The substance, generically identified as 1,3-benzenedicarboxylic acid, polymer with substituted alkane and 2-ethyl-2-(hydroxymethyl)-1, 3-propanediol, is a site-limited intermediate. The substance will be manufactured for test marketing purposes during a test marketing period not to exceed one year. A notice published in the Federal Register of July 23, 1981 (46 FR 37964) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-22, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. There were no significant health or environmental concerns for the TME substance. The product will be manufactured in a closed system. During manufacture and industrial use, two workers may be exposed to the TME substance for a maximum total of four hours. There will be no consumer exposure to the TME substance in its final form, and no environmental release of the substance is expected.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) as specified in the application, and of the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of one year commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-25203 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59056C; TSH-FRL-1922-1]

Toxic Substances; 1,3-Benzenedicarboxylic Acid, Polymer with 2,2'-[1,2-Ethanediyl Bis(Oxy)] Bis[Ethanol]), 1,6-Hexanedioic Acid, and Substituted Alkane; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-23) under Section 5 of the Toxic Substances Control Act (TSCA) on July 2, 1981. Notice of receipt of the application was published in the **Federal Register** of July 23, 1981 (46 FR 37964). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on August 21, 1981.

FOR FURTHER INFORMATION CONTACT: Carrie E. Berlin, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St. SW., Washington, D.C. 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with Section 5(d) and any applicable requirement of Section 5(b). Section 5(d)(1) defines the contents of a PMN and Section 5(b) contains additional reporting requirements of certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of Section 5. In particular, Section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of Section 5(a) or Section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under Section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On July 2, 1981, EPA received an application for an exemption from the requirements of Sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-23. The manufacturer claimed his identity, the chemical identity, the production volume, and process information as confidential business information under Section 14 of TSCA. The substance, generically identified as 1,3-benzenedicarboxylic acid, polymer with 2,2'[1,2-ethanediyl bis[oxy] bis[ethanol], 1,6-hexanedioic acid and substituted alkane, is to be used as a site-limited intermediate. The substance will be manufactured for test marketing purposes during a test marketing period not to exceed one year. A notice published in the **Federal Register** of July 23, 1981 (46 FR 37964) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-23 under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment for the reasons explained below. There were no significant health or environmental concerns for the TME substance. The product will be manufactured in a closed system. During manufacture and industrial use, two workers may be exposed to the TME substance for a maximum total of four hours. There will no be consumer exposure to the TME substance in its final form, and no environmental release of the substance is expected.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) as specified in the application, and of the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of one year commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-25204 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59056D; TSH-FRL-1922-2]

Toxic Substances; 2-Hydroxyethyl Propenoate, Polymer With 1,1-Methylenebis[4-Isocyanatocyclohexane] and 1,3-Benzenedicarboxylic Acid, Polymer With Substituted Alkanes; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-24) under Section 5 of the Toxic Substances Control Act (TSCA) on July 2, 1981. Notice of receipt of the application was published in the **Federal Register** of July 23, 1981 (46 FR 37964). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on August 21, 1981.

FOR FURTHER INFORMATION CONTACT: Carrie E. Berlin, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with Section 5(d) and any applicable requirement of Section 5(b). Section 5(d)(1) defines the contents of a PMN and Section 5(b) contains additional reporting requirements of certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of Section 5. In particular, Section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of Section 5(a) or Section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under Section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On July 2, 1981, EPA received an application for an exemption from the requirements of Sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-24. The manufacturer claimed his identity, the chemical identity, the production volume, and process information as confidential business information under section 14 of TSCA. The substance, generically identified as 2-hydroxyethyl propenoate, polymer with 1,1-methylenebis [4-isocyanatocyclohexane] and 1,3-benzenedicarboxylic acid, polymer with substituted alkanes, is to be used as an article coating. The substance will be manufactured for test marketing purposes during a test marketing period not to exceed one year. A notice published in the **Federal Register** of July 23, 1981 (46 FR 37964) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-24 under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment for the reasons explained below. There were no significant health or environmental concerns for the TME substance. The product will be manufactured in a closed system. During manufacture and industrial use, four workers may be exposed to the TME substance for a maximum total of 33 hours. There was some concern about irritation to the eye and skin; the Agency believes proper handling will insure negligible contact. There will be no consumer exposure to the TME substance in its final form, and no environmental release of the substance is expected.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) as specified in the application, and of the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of one year commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: August 21, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-25205 Filed 8-27-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

[Docket No. 81-49; Agreement No. 10387]

Pacific/Australia-New Zealand Conference and Karlander Kangaroo Line; Order of Further Investigation and Hearing

Agreement No. 10387, a rate agreement between the members of the Pacific/Australia-New Zealand Conference [1] and Karlander Kangaroo Line has been filed for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

The Agreement covers the outbound trade between the United States Pacific Coast and Australia/New Zealand and would permit the parties to discuss and agree upon rates, charges, classifications, practices, brokerage, freight forwarder compensation, equalization, absorption, transshipment and overland and/or other inland movements, and tariff matters pertaining thereto. In addition, the Agreement provides a 48-hour right of independent action between the parties.

Notice of the filing of Agreement No. 10387 was published in the **Federal Register** on April 29, 1980. No protests or comments regarding the Agreement were filed with the Commission.

[1] The conference consists of Blue Star Line, Columbus Line, Farrell Lines and Pacific Australia Direct Line, but is acting collectively as one party for the purposes of this rate agreement.

Section 15 requires the Commission to disapprove any agreement which it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or violative of the Shipping Act. Because Agreement No. 10387 provides, *inter alia*, for fixing of rates, it is *per se* violative of the antitrust laws and, as such, is contrary to the public interest, unless justified. In order to justify the Agreement, the proponents must demonstrate, by substantial evidence, that it is required by a serious transportation need or is necessary to secure important public benefits, or is in furtherance of valid regulatory purpose of the Shipping Act. *Federal Maritime Commission v. Svenska Amerika Linien*, 390 U.S. 238, 240 (1968).

Proponents of Agreement No. 10387 have submitted an affidavit of the Conference chairman and a memorandum of counsel in support of approval. Through these documents they generally maintain that the trade covered by the Agreement: (1) has a "relatively small" cargo base; (2) is overtonnaged; (3) has historically been "conference minded;" and (4) is currently unstable and could be subject to a rate war if Agreement No. 10387 is not approved. The justification submitted to date however, has not been sufficient to satisify the *Svenska* standards. Specific contentions to the effect that the trade is overtonnaged and that tendencies exist toward rate instability, have not been supported by any substantive data or factual evidence.

By Order of February 6, 1981, the Commission conditionally disapproved Agreement 10387 on the grounds that the proponents had not adequately substantiated the approvability of the Agreement. In its Order of Conditional Disapproval, the Commission suggested several specific questions the answers to which would exemplify the type of factual information it would require before approving the Agreement. These questions were:

1. What indications are there of current or potential rate instability in this trade;

2. What are the present and historical levels of capacity utilization in this trade;

3. What is the outlook for liner exports in this trade and what factors will affect the growth of such exports;

4. What, if any, changes are anticipated in the level of cargo-carrying capacity allocated to the trade; and

5. What percentage of this trade is carried by carriers other than the parties to the Agreement?

The Commission's disapproval was conditioned on the proponent's right to request a further hearing, on or before March 12, 1981. Since that date, the time within which to request such a hearing has been extended twice: first, by Amendment to Order dated March 9, 1981, extending time to submit such a request up to an including April 19, 1981, and, second, by further Amendment to Order, dated April 9, 1981 extending such time up to and including May 13, 1981.

On May 13, 1981, the proponents filed a request for a further hearing. To establish the approvability of Agreement 10387, proponents say that they will submit: rate studies tracing rate activities for various representative commodities during the period 1976 through 1980, demonstrating the growing rate instability in the trade; evidence establishing the capacity increases for the period 1976 through 1980; projections regarding the outlook for liner exports in the trade; evidence demonstrating continuing increases in capacity serving the trade; evidence that indirect service by carriers not directly committed to providing continued or direct service to Australia is likely to increase over the next several years and additional evidence supporting approvability of this Agreement. We conclude that proponents have made the showing necessary to entitle them to a further hearing since they have set out the facts they intend to prove, a description of the evidence that will be used to prove these facts, and the relevance of these facts to approvability of the Agreement.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814 and 821), a formal investigation and hearing is hereby instituted to determine whether Agreement No. 10387 should be approved, disapproved or modified;

It is further ordered, That Blue Star Line, Columbus Line, Farrell Lines, Pacific Australia Direct Line and Karlander Kangaroo Line are designated as proponents in this proceeding;

It is further ordered, That proponents will submit their direct case, consisting of the information which they have said they would submit in their request for a hearing, along with any additional information which proponents believe supports the approvability of this Agreement, within 60 days from the date of this Order;

It is further ordered, That the discovery process set forth in § 502.201 of the Commission's Rules of Practice and Procedures (46 CFR 502.201) shall not commence until the receipt by the Commission of proponent's direct case; and

It is further ordered, That this matter is assigned to an Administrative Law Judge for public hearing and decision at a date and place to be hereafter determined by the Administrative Law Judge. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of materials fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue otherwise requires an oral hearing and cross-examination for the development of an adequate record;

It is further ordered, That this Order be published in the **Federal Register** and a copy served upon Proponents and the Commission's Office of Hearing Counsel;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with § 502.72 of the Commission's Rules (46 CFR 502.72);

It is further ordered, That all future notices, orders, or decisions issued in this proceeding, including notice of the time and place of hearing or prehearing conference, be mailed directly to all parties of record; and

It is further ordered, That all documents submitted by any party in this proceeding be filed in accordance with § 502.118 of the Commission's Rules (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.[1]

Francis C. Hurney,

Secretary.

[FR Doc. 81-25134 Filed 8-27-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Central Bank Shares, Inc.; Formation of Bank Holding Company

Central Bank Shares, Inc., Orlando, Florida, 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 100 percent of the voting shares of the successor by merger to Bank of Central Florida, Orlando, Florida. The factors that are considered in acting on the application are set forth

[1] Commissioner Daschback concurs in the result only. His opinion is filed with the original document.

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 September 22, 1981. 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, August 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25220 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Centurion Bancorp, Inc.; Formation of Bank Holding Company

Centurion Bancorp, Inc., Charleston, West Virginia, 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 100 percent of the voting shares of The Charleston National Bank, Charleston, West Virginia. 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 Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1981. 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, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25213 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Proposed Acquisition of Certain Assets and Liabilities of Mercantile Mortgage Company, St. Louis, Missouri

Citicorp, New York, New York, has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and Section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through its subsidiary, Citicorp Person-to-Person, Inc., certain assets and servicing rights and to assume certain liabilities of Mercantile Mortgage Company, St. Louis, Missouri.

Applicant states its subsidiary would engage in the activities of origination and placement of FHA/VA and conventional mortgage loans and construction loans; servicing of loans for institutional investors and selling mortgage life and disability insurance directly related to mortgage loans. These activities would be performed from offices of Applicant's subsidiary in Corpus Christi, Houston and San Antonio, Texas and St. Louis, Missouri, and the geographic areas to be served are the states of Texas and Missouri. 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 New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than September 20, 1981.

Board of Governors of the Federal Reserve System, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25212 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

First Bank Minneapolis International, Inc., Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

First Bank Minneapolis International, Inc., Minneapolis, Minnesota, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Milwaukee, Wisconsin. First Bank Minneapolis International, Inc., which has also applied for the Board's approval to change its name to First Bank International, Inc., operates as a subsidiary of First National Bank of Minneapolis, Minneapolis, Minnesota. The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 20, 1981. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25219 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

First City Financial Corp.; Formation of Bank Holding Company

First City Financial Corporation, Hobbs, New Mexico, 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 at least 80 per cent of the voting shares of the successor by merger to First National Bank of Lea County, Hobbs, New Mexico, and at least 80 per cent of the

successor by merger to First City National Bank, Carlsbad, New Mexico. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 23, 1981. 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, August 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25222 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Metcalf Bancshares, Inc., Formation of Bank Holding Company

Metcalf Bancshares, Inc., Overland Park, Kansas, 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 Metcalf State Bank, Overland Park, Kansas. 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 September 23, 1981. 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, August 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25221 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Montgomery County Bancshares, Inc.; Formation of Bank Holding Company; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 81-24422) published at page 42529 of the issue for Friday, August 21, 1981. The locations of the applicant and the bank to be acquired were incorrect. Montgomery County Bancshares, Inc., and Montgomery County Bank are both located in Spring, Texas.

Board of Governors of the Federal Reserve System, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25218 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Orange County Banking Corp.; Formation of Bank Holding Company

Orange County Banking Corp., Ocoee, Florida, 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 Bank of West Orange, Ocoee, 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 September 20, 1981. 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, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25214 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Southwest Bancorp, Inc., Formation of Bank Holding Company

Southwest Bancorp, Inc., Stillwater, 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 100 per cent of the voting shares of Stillwater National Bank and Turst Company, Stillwater, 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 September 19, 1981. 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, August 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25217 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

S.T.D. Investments, Inc.; Formation of Bank Holding Company

S.T.D. Investments, Inc., Mindenmines, 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 88 percent or more of the voting shares of Bank of Minden, Mindenmines, 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 20, 1981. 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, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25216 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

United Kansas Bank Group Inc.; Formation of Bank Holding Company

United Kansas Bank Group Inc., Merriam, Kansas, 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 United Kansas Bank & Trust, Merriam, Kansas. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 20, 1981. 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, August 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25215 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

Manufacturer's Hanover Corp., et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to Section 4(c)(8) of the Bank Holding Company act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 21, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (insurance activities; New York): to engage through its subsidiaries, Tempco Life Insurance Company and Ritter Life Insurance Company in the activity of reinsuring credit life insurance and credit accident and health insurance related to extensions of credit by the Applicant's banking subsidiaries in the State of New York. These activities would be conducted from offices in Phoenix, Arizona, and Huntington Valley, Pennsylvania, serving the State of New York.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. **Bankamerica Corporation,** San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Pennsylvania, Ohio, New York, and Maryland): to continue to engage, through its indirect subsidiary, FinanceAmerica Consumer Discount Company, a Pennsylvania corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, servicing loans and other extensions of credit, and offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance in the state of Pennsylvania. Credit-related property insurance will not be offered in the states of Ohio, New York, and Maryland. Such activities will include, but not be limited to, making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans and other extensions of credit secured by real and personal property; and offering credit-related life, credit-related accident and health, and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Consumer Discount Company.

These activities will be conducted from existing offices located in Chambersburg, Pennsylvania, serving the entire States of Pennsylvania and Maryland; Erie, Pennsylvania, serving the entire States of Pennsylvania and Ohio; Sayre, Pennsylvania, serving the entire States of Pennsylvania and New York; and Williamsport, Pennsylvania, serving the entire State of Pennsylvania.

2. **Bankamerica Corporation,** San Francisco, California (industrial loan company, financing, servicing, and insurance activities; *de novo* industrial loan company offices, West Virginia): to engage, through its proposed indirect subsidiaries, FinanceAmerica Thrift Corporation of Fairmont, FinanceAmerica Thrift Corporation of Martinsburg, and FinanceAmerica Thrift Corporation of Morgantown, ("FA Thrift/West Virginia Corporations"), in the activities of an industrial loan company under the West Virginia Industrial Bank and Industrial Loan Company Act. The FA Thrift/West Virginia Corporations also propose to engage in the activities of making or acquiring for their own accounts loans and other extensions of credit such as would be made or acquired by a finance company; servicing such loans and other extensions of credit; and the offering of credit-related life and credit-related accident and health insurance; credit-related property insurance will not be offered by these corporations in the State of West Virginia.

Such activities will include, but not be limited to, selling or offering for sale their secured or unsecured evidences or certificates of indebtedness, accepting savings accounts and offering NOW accounts, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, making loans secured by real and personal property, and offering credit-related life and accident and health insurance directly related to extensions of credit made or acquired by the FA Thrift/West Virginia Corporations.

These activities will be conducted from *de novo* offices located in Fairmont, Martinsburg, and Morgantown, West Virginia, serving the entire State of West Virginia.

3. **Nevada National Bancorporation,** Reno, Nevada (financing, and leasing

activities; Nevada): to engage through its subsidiary Nevada National Leasing Company, Inc., in the following activities: the financing of personal property and equipment and leasing of such property or the acting as an agent, broker or advisor in the leasing and/or financing of such property where at the inception of the initial lease, the effect of the transaction (and, with respect to governmental entities only, reasonable anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property over the term of the lease, and the servicing of such financings and/or loans as is authorized by the Federal Reserve Board under Regulation Y and the Bank Holding Company Act; making or acquiring for its own company or the account of others, loans and other extensions of credit in the normal course of its leasing business including the making of business installment loans, the purchase of business installment sales finance contracts and making loans to businesses of various sizes.

The above described activities will be conducted from an office in Elko, Nevada, serving northeastern Nevada.

4. **Security Pacific Corporation**, Los Angeles, California (escrow activities; Hawaii): to engage through its subsidiary, Security Pacific Escrow, Inc., in acting as escrow agent for the purchase and sale of real property and the execution of all documents and dispersal of funds relating to loan transactions, and all other activities engaged in by an escrow company. These activities would be conducted from an office of Security Pacific Escrow, Inc. located in Kailua, Hawaii, serving the State of Hawaii.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25223 Filed 8-27-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Line of Business Reports Program; Intention To Publish 1975 Line of Business Annual Report

AGENCY: Federal Trade Commission.

ACTION: Authorization to Publish 1975 Line of Business Annual Report on or after September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Line of Business Program, ESL-G-LL01, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. Telephone: (202) 254-8170.

The Federal Trade Commission has authorized publication of the 1975 Line of Business ("LB") Annual Report, which contains aggregates of data reported by individual companies, but which does not contain any information by which individual company data can be identified. In order to assure that all reporting companies receive adequate notice, publication will not take place prior to September 11, 1981.

In connection with the Commission's notice regarding publication of the 1974 LB Annual Report, on August 6, 1981, the Commission placed on the public record and sent to reporting companies copies of a statement explaining its publication policies. Copies of the Commission's statement may be obtained by contacting the LB Program at the address or phone number above and requesting the *Statement of the Federal Trade Commission Concerning Publication of the 1974 Line of Business Annual Report.* Also, before the 1975 Annual Report is published, the LB Program will supply on request a redacted copy of it setting forth the categories of information to be published, but from which the actual aggregated LB data have been temporarily deleted.

A notice will be published in the **Federal Register** when the complete 1975 Annual Report is publicly available.

Dated: August 24, 1981.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-25241 Filed 8-27-81; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 138]

Southern Bell Telephone and Telegraph Co. and Georgia Public Service Commission; Proposed Intervention in Telecommunications Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Georgia Public Service Commission concerning the application of the Southern Bell Telephone and Telegraph Company for an increase in intrastate telecommunications rates. GSA represents the interests of the executive agencies of the U.S. Government as users of telecommunications services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Charles V. Curcio, Assistant General Counsel, Automated Data and Telecommunications Division, General Services Administration, 18th & F Streets, N.W., Washington, DC (mailing address: General Services Administration (LX), Washington, DC 20405), telephone 202-566-1156, on or before September 28, 1981, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding. (Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: August 19, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-25209 Filed 8-27-81; 8:45 am]

BILLING CODE 6820-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 80P-0134 et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that variances from the performance standard for laser products have been approved by the Bureau of Radiological Health for 26 organizations that manufacture and produce laser light shows, or laser light show projectors, or both the light show and projector. The projector provides a laser display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences..

DATES: The effective dates and termination dates of the variances are listed in the table under "Supplementary Information."

ADDRESS: The application and all correspondence on the various applications have been placed on display in Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), each of the 28 organizations listed in the table below has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product which is its particular variety of laser light show, or laser light show projector, or both, assembled and produced by the manufacturer. Each of the shows has levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection are provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for personnel who will operate the products. To associate uniquely the product with the variance approved for the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a)) (21 CFR 1010.2(a) the docket number and effective date of the variance as specified in the table below. By letter to each manufacturer, the Director of the Bureau of Radiological Health approved the requested variances. (On May 29, 1981, variance number 81P–0077, granted to Laser-Physics, Ltd., New York, NY, was rescinded by notice from the Director.)

Approved Variances

Docket No.	Manufacturing organization of the demonstration laser product	Demonstration laser product	Effective data of variance	Termination data of variance
80P-0134	Bonds International Disclotheque, 1526 Broadway Corp., 1526 Broadway, New York, NY 10036.	Bonds International Discotheque, Laser Light Show incorporting Science Faction Corporation's Model SFC 2001 Laser Scanning Systems.	Aug. 28, 1980	Aug. 28, 1982.
80P-0151	Guptill Arena, c/o K. Mason Daring, 89 Front Street, Marblehead, MA 01945.	Laser Light Show incorporating an SFC-2002 Laser Scanning System.	June 10, 1980	June 10, 1982.
80P-0153	Projected Imagery, Inc., 2312 Grand Avenue, Dalas, TX 75215	Laser Light Show incorporating laser projector Models MC-3, HN-1, AP-1 and MCG-1.	June 10, 1980	June 10, 1982.
80P-0156	Rarefied Media, Inc., Suite 906, 130 West 56th Street, New York, NY 10019.	Laser light shows and the Series IV Laser Projector	June 23, 1980	June 23, 1982.
80P-0157	Image Engineering Corp., 60 Aberdeen Ave., Cambridge, MA 02138	Laser light shows and the Model Series 300 laser projectors	Mar 27, 1981	June 10, 1982.
80P-0174	Lumiere Laser Products, Inc., 7979 N 66th Street, Milwaukee, WI 53223.	Lumiere Laser Productions, Inc. Laser Light Shows incorporating the Lumiere Laser Productions Model L-100 Laser Light Show Projector.	May 20, 1981	Oct. 30, 1982.
80P-0175	Laser Group, Inc., 1114 Stewart Street, Madison, WI 53713	Laser light shows incorporating the LCI family, system I-IV laser projectors.	Aug. 27, 1980	Aug. 27, 1982.
80P-0197	Embacadero Corp., 1824 Half Street, S.W., Washington, D.C. 20024	Pier laser light show incorporating a Laser Presentation's Model UP-4 laser projector.	Aug 27, 1980	Aug 27, 1982.
80P-0201	Mr. Rockne Krebs, 1428 U Street, N.W., Washington, D.C. 20009	Source MOD 0043 Laser Lght Show and similar type laser light displays and the incorporated laser projectors.	June 2, 1980	June 2, 1982.
80P-0202	Laser Spectra, 2145 Park Drive, Los Angeles, CA 90026	Spectroiaze 2000 Laser Projector and the laser light shows incorporating that projector.	Aug. 14, 1980	Aug. 14, 1982.
80P-0215	Metatron Laser Art, 2424 Fernwood Ave., San Jose, CA 95128	Metatron Laser Art Projector Model M.L. 95-5K and the laser light shows incorporating the projector.	Feb. 26, 1981	Feb. 26, 1982.
80P-0251	Lasers By Lord, 2620 A Street, San Diego, CA 92102	Laser light shows incorporating the Screen Projector #1 and Overhead Scanner #010.	Aug 27, 1980	Aug. 27, 1982.
80P-0252	Flying Saucer Videotheque, Centro Commercial SN-4, Cond. Marbella Del Caribe, Isla Verde, Puerto Rico 99013.	Flying Saucer Videotheque laser light show	Aug. 27, 1980	Aug 27, 1982.
80P-0495	Showlasers, Inc., 2312 Grand Avenue, Dallas, TX 75215	Laser Light Shows Incorporating the Class IV show-lasers Model LPI Laser Effects Projector.	Feb 26, 1981	Feb. 26, 1983.
80P-0500	Leisure Associates, Inc., 904 Parkway, Gatlinburg, TN 37738	System #1 Laser Projector and Planetarium Laser Light Show	Mar. 10, 1981	Mar. 10, 1983.
81P-0001	Lighting Systems Design, 3033 N.E. 19th Drive, #6, Gainsville, FL 32601.	Laser light shows incorporating the Model PM 2500AD Lumia Projector System.	Feb 26, 1981	Feb. 26, 1983.
81P-0007	Morrison Planetarium, California Academy of Sciences, Golden Gate Park, San Francisco, CA 94118.	Morrison Planetarium Laser Light Show Incorporating a Class IIIb Argon Ion Laser Projector.	Apr. 6, 1981	Apr. 6, 1982.
81P-0034	Chroma Kinetics Company, P.O. Box 313, Cambridge, MA 02141	Chroma Kinetics Laser Light Shows incorporating the Generic Laser Projector.	Apr. 14, 1981	Apr. 14, 1983.
81P-0036	Fernbank Science Center, 156 Heaton Park Dr., N.E., Atlanta, GA 30307.	Fernbank Science Center Special Effects Laser Projector, FSC-L-0 and Laser Light Shows.	Apr. 2, 1981	Apr. 2, 1983.
81P-0044	Laser Art Productions, 909 East Trafficway St., Springfield, MO 65812.	Laser Art Productions Laser Light Shows incorporating Model Series LAP265 Laser Projector.	Apr. 9, 1981	Apr. 9, 1983.
81P-0059	Jeffrey B. Meade, Electronic Electrician, 5895 Nave Street, S.W., Canton, OH 44706.	Jeffrey B. Meade Orthoganal Laser Projector Model 21558 and Laser Light Shows.	Apr. 8, 1981	Apr. 8, 1983.
81P-0074	Laser Fusion, 1966½ Shenandoah St., Los Angeles, CA 90034	Laser Fusion Laser Light Shows incorporating the Naûtilus Series Modular Porjection System Model N-2.	Mar. 12, 1981	Mar. 12, 1983.
81P-0077	Laser-Physics, Ltd., 65 Wooster St., New York, NY 10012	Laser-Physics Laser Light Show employing 550 Series Argon-krypton Laser Projector System.	Apr. 23, 1981	Apr. 23, 1983.
81P-0078	Blagden Food and Beverage, Inc., 27-31 Huntington Ave., Boston, MA 02116.	Laser light shows using Image Engineering Model 350 and 390 Series Laser Projectors.	May 29, 1981	May 29, 1983.
81P-0130	LASERPOINT (of England), c/o Mr. Steve Jander, Consultant, 2812 Grand Avenue, Dallas, TX 75215.	LASERPOINT laser effects projector incorporated in laser light shows.	June 1, 1981	June 1, 1983.
81P-0162	Tau Beta Pi Association, Inc., California Epsilon Chapter, 3805 Beoltar Hall, UCLA Campus, CA 90024.	Laserama Laser Light Show and incorporated projector, Model No. 1981.	May 8, 1981	June 8, 1981.

In accordance with § 1010.4, the application and all correspondence (including the written notices of approval and the notice rescinding variance 81P–0077) on the various applications have been placed on public display under the designated docket number in the Dockets Management Branch, Food and Drug Administration (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24930 Filed 8-27-81; 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 Alan L. Hoeting, District Director, Detroit District Office, Detroit, MI.

DATE: The meeting will be held at 9:30 a.m., Wednesday, September 16, 1981.

ADDRESS: The meeting will be held at the Michigan Consumers Council Conference Room, 414 Hollister Bldg., Lansing, MI 48933.

FOR FURTHER INFORMATION CONTACT: Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, 1560 East Jefferson St., Detroit, MI 48207, 313–226–6260.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and the FDA Detroit District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24929 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Notice of 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 William C. Hill, District Director, San Francisco District Office, San Francisco, CA.

DATE: The meeting will be held from 2 p.m. to 4 p.m., Thursday, September 24, 1981.

ADDRESS: The meeting will be held at the Clark County Health District, 625 Shadow Lane, Las Vegas, NV 89106.

FOR FURTHER INFORMATION CONTACT: Connie Y. Saito, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 518, San Fancisco, CA 94102, 415–556–2062.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's San Francisco District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Sherwin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24928 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Notice of 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 Abraham I. Kleks, District Director, Los Angeles District Office, Los Angeles, CA.

DATE: The meeting will be held from 9:30 a.m. to 12:30 p.m., Thursday, September 17, 1981.

ADDRESS: The meeting will be held at Senior Now Generation Programs, 102 N. Plumer, Tuscon, AZ 85719.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015, 213–688–3771.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's Los Angeles District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24927 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Notice of 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 Mr. George J. Gerstenberg, District Director, New York District Office, Brooklyn, NY.

DATE: The meeting will be held from 10 a.m. to 12 m. on Wednesday, September 23, 1981.

ADDRESS: The meeting will be held at 60 E. 42 St., Rm., 2446, New York, NY 10165.

FOR FURTHER INFORMATION CONTACT: Alicia Martinez, Consumer Affairs Officer, Carolyn L. Hommel, Consumer Affairs Technician, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24926 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Notice of 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 Henry P. Roberts, District Director, Minneapolis District Office, Minneapolis, MN.

DATE: The meeting will be held from 9:30 a.m. to 11 a.m., Tuesday, September 15, 1981.

ADDRESS: The meeting will be held at the Northwest Health Center, 7630 W. Mill Rd., Milwaukee, WI.

FOR FURTHER INFORMATION CONTACT: Mary Elyn Bahlert, Consumer Affairs Officer, Lewis Center Bldg., 615 East Michigan, Milwaukee, WI 53202, 414–291–3094.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and the FDA's Minneapolis District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24925 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Notice of 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 William C. Hill, District Director, San Francisco District Office, San Francisco, CA.

DATE: The meeting will be held from 1 p.m. to 3 p.m., Tuesday, September 29, 1981.

ADDRESS: The meeting will be held at the Food and Drug Administration, 50 United Nations Plaza, Rm. 546, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Camilla Gray, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 518, San Francisco, CA 94102, 415-556-2062

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's San Francisco District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24924 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Notice of 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 Frederick R. Carlson, District Director, Boston District Office, Boston, MA.

DATE: The meeting will be held from 10 a.m. to 12:30 p.m., Friday, September 25, 1981.

ADDRESS: The meeting will be held at the Deeds and Probate Bldg., Conference Rm., Railroad Ave., Barnstable, MA 02630.

FOR FURTHER INFORMATION CONTACT: Yolan L. Harsanyi, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617-223-5857.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and the FDA's Boston District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24923 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 75G-0296]

Olin Chemicals; Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the withdrawal without prejudice of the petition proposing affirmation that calcium hypochlorite for use in potable water for washing fresh fruits and vegetables is generally recognized as safe (GRAS).

FOR FUTHER INFORMATION CONTACT: John H. Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (Sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued: In accordance with § 171.7 *Withdrawal of petition without prejudice* (21 CFR 171.7), of the procedural food additive regulations, Olin Chemicals, 120 Long Ridge Rd., Stamford, CT 06904, has withdrawn its petition (GRASP 3G0027), notice of which was published in the **Federal Register** of October 10, 1975 (40 FR 47817) proposing that calcium hypochlorite for use in potable water for washing fresh fruits and vegetables is generally recognized as safe (GRAS).

Dated: August 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-24921 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81G-0243]

Olin Chemicals; Withdrawal of Petition for GRAS Affirmation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the withdrawal without prejudice of the petition (GRASP 2G0004) proposing affirmation that 0.5 part per million (ppm) calcium hypochlorite used in live oyster-conditioning water is generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: John H. Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued: In accordance with § 171.7 *Withdrawal of petition without prejudice* (21 CFR 171.7) of the procedural food additive regulations, Olin Chemicals, 120 Long Ridge Rd., Stamford, CT 06904, has withdrawn its petition (GRASP 2G0004), notice of which was published in the **Federal Register** of March 7, 1973 (38 FR 6215) proposing that 0.5 part per million (ppm) calcium hypochlorite used in live oyster-conditioning water is generally recognized as safe (GRAS).

Dated: August 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-24922 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0178]

R. T. Vanderbilt Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that R. T. Vanderbilt Co., Inc., has filed a petition to change the name "dipentamethylenethiuram tetrasulfide" to "dipentamethylenethiuram hexasulfide" under 21 CFR 177.2600(c)(4)(ii)(*b*) of the food additive regulations.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21

U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B3560) has been filed by R. T. Vanderbilt Co., Inc., 30 Winfield St., Norwalk, CT 06855, to change the name "dipentamethylenethiuram tetrasulfide" to "dipentamethylenethiuram hexasulfide" under paragraph (c)(4)(ii)(*b*) of § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600(c)(4)(ii)(*b*)). A different chemical stucture has been identified using advanced analytical techniques. There is no change in the composition of the product.

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 finding 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: August 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-24920 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0253]

Skull X-Ray Referral Criteria Panel; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming meeting of the Skull X-Ray Referral Criteria Panel. Convened by the University of California at San Francisco, this panel is provided logistical support by FDA. This notice gives methods for interested persons to submit written data and views to the panel, to participate in open sessions of the meeting, and to review the report of the panel.

DATES: Open sessions: September 14, 1981, 8:30 a.m. to 10 a.m. and September 15, 1981, 8:30 a.m. to 10 a.m.; closed sessions: September 14, 1981, 10:15 a.m. to 4:30 p.m. and September 15, 1981, 10:30 a.m. to 12 noon.

ADDRESSES: The Panel meeting will be held at the Bethesda Marriot Hotel, 2 Pooks Hill Rd., Bethesda, MD, 301-897-9400. The panel report may be reviewed at the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip M. McClean, Bureau of Radiological Health (HFX-76), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4600.

SUPPLEMENTARY INFORMATION: Through the Bureau of Radiological Health, FDA conducts and supports research, training, and other activities to minimize unproductive radiation exposure from diagnostic radiological examinations. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To minimize requests for ineffective examinations, it is important that the referring physician have up-to-date information about when a given radiological study is likely to provide needed diagnostic information. This information, which can take the form of decision guides based on patient signs, symptoms, or history, is termed here "referral criteria."

Under one part of a program designed to facilitate the development and testing by the medical profession of referral criteria for diagnostic radiological examinations, FDA provides logistical support through a contractor for the convening of small panels of clinical and scientific experts to formulate draft referral criteria or statements of use. A detailed description of the X-ray referral criteria development process was published in the **Federal Register** of June 9, 1981 (46 FR 30568).

This is the first meeting of the Skull X-Ray Referral Criteria Panel. The meeting is being called to assess the existing state of knowledge regarding the use of plain skull radiography following head trauma and to discuss several approaches toward developing referral criteria for this examination. Persons interested in specific agenda items to be discussed in open session may determine from the contact person the approximate time of discussion.

Interested persons may submit written data and views to the panel. Any interested person who wishes to request time for oral presentations during the open portion of the meeting should inform the contact person listed above, either orally or in writing, before the meeting. Any person attending the meeting who does not in advance of the meeting request time will be permitted to make an oral presentation at the conclusion of the open portion, if time permits, at the chairperson's discretion.

A list of committee members and the meeting agenda or the report of the panel meeting may be reviewed at the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday. The report of the panel meeting will contain minutes of the open session, copies of written data and views submitted to the panel in open session, and summaries of the closed sessions.

Dated: August 20, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-24919 Filed 8-24-81; 8:45 am]

BILLING CODE 4110-03-M

Social Security Administration

Reallotment of Funds for 1981; Low Income Energy Assistance Program

AGENCY: Social Security Administration, HHS.

REF: Federal Register/Vol. 46, No. 134/ July 14, 1981.

ACTION: Notice of final determination of funds available for reallotment and the amount by which each State and tribal allotment will be reduced or increased.

State and Tribal allotments to be reduced.

The chart below shows the States and Tribes whose original allotment will be reduced and the amount of reduction.

State	Original allotment	Amount of reduction	New allotment
Alaska	$9,623,855	$2,500,000	$7,123,855
Iowa	32,674,799	4,500,000	28,174,799
Missouri	40,673,651	4,400,000	36,273,651
Nebraska	16,158,946	3,000,000	13,158,946
North Dakota	14,016,247	5,000,000	9,016,247
Washington	35,951,971	3,000,000	32,951,971
Wisconsin	62,694,479	3,500,000	59,194,479
Wyoming	5,247,030	1,893,874	3,353,156

Tribe	Original allotment	Amount of reduction	New allotment
Devils Lake Sioux	$245,284	$24,921	$220,363
Puyallup	232,322	72,322	160,000
Sauk-Suiattle	58,638	42,318	16,320
Standing Rock	436,737	165,000	271,737
Ute	137,239	39,538	97,701
Three affiliated tribes	263,505	37,474	226,031

States and Tribal allotments to be increased.

The chart below shows the States and Tribes whose original allotment will be increased and the amount of increase.

State	Original allotment	Amount of increase	New allotment
Florida	$23,655,973	$1,120,004	$24,975,977
Maine	23,833,718	2,734,438	26,568,156
Massachusetts	73,591,153	6,200,000	79,791,153
Michigan	96,675,763	11,091,595	107,767,358
Mississippi	12,925,992	500,000	13,425,992
Oklahoma	13,858,652	1,589,915	15,448,567
South Carolina	11,974,035	1,373,783	13,347,818
Virginia	34,313,299	3,346,146	37,659,435

Tribe	Original allotment	Amount of increase	New allotment
Navajo	$1,635,439	$148,000	$1,783,439
Turtle Mt. Band of Chippewa	742,861	71,284	814,145

Dated: August 25, 1981.

Robert J. Myers,

Acting Commissioner of Social Security.

[FR Doc. 81-25256 Filed 8-27-81; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-28297]

Alaska Native Claims Selection

The document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" was ratified by Public Law (Pub. L.) 94-204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369) authorized the Secretary of the Interior to identify and reserve within two years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On August 30, 1979, Patent No. 50-79-0138 and Interim Conveyance No. 230 were issued to Cook Inlet Region, Inc., for the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94-204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369), and are described as follows:

Patent No. 50-79-0138 of August 30, 1979

Seward Meridian, Alaska (Surveyed)

T. 1 N., R. 13 W.
Sec. 22, lot 1;
Sec. 33, lot 5;
Sec. 35, W½NE¼, E½NW¼, S½SE¼.
Containing 243.78 acres.

T. 2 N., R. 12 W.
Sec. 36, all.
Containing 640 acres.

T. 4 N., R. 11 W.
Sec. 17, all;
Sec. 18, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 19, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 30, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 31, lots 1, 2, 3, and 4, E½, E½W½;
Containing 3,072.36 acres.

T. 5 N., R. 10 W.
Sec. 1, lots 1, 2, 4, and 6, S½NE¼;
Sec. 2, lots 1, 2, 3, and 4, S½NW¼, SW¼;
Sec. 3, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 4, lots 1 and 6, S½NE¼, SW¼NW¼, N½S½, SE¼SE¼;
Sec. 5, SE¼NE¼, E½SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, lots 1 and 2, E½NE¼, SW¼NE¼, NW¼NW¼;
Sec. 11, N½, N½SE¼;
Sec. 12, W½NW¼, NW¼SW¼, E½SE¼, E½W½SE¼.
Containing 2,683.04 acres.

T. 5 N., R. 11 W.
Sec. 31, E½NE¼, SE¼SE¼;
Secs. 32 and 33, all.
Containing 1,400 acres.

T. 6 N., R. 11 W.
Sec. 24, E½NE¼, E½W½NE¼, NE¼SE¼, E½NW¼SE¼.
Containing 180 acres.

T. 7 N., R. 11 W.
Sec. 2, lots 1, 2, and 7, SW¼NE¼, E½SW¼, SE¼;
Sec. 8, lot 3.
Containing 370.98 acres.

T. 8 N., R. 10 W.
Sec. 30, lots 6, 7, 8, 9, 10 and 11, E½SW¼, E½SE¼, NW¼SE¼, N½SW¼SE¼.
Containing 301.47 acres.

T. 8 N., R. 11 W.
Sec. 25, lots 1, 2, 3, 4, 20, and 21 SE¼NW¼NE¼, NE¼SW¼NE¼, S½SW¼NE¼, SE¼NE¼, S½S½SW¼, SE¼;
Sec. 33, lot 22;
Sec. 35, lots 1, 2, 29, 38, 39, 40, 41, 42, 50, 51, 54, 55, 58, 61, and 63 SW¼NW¼SE¼, SW¼SE¼, S½SE¼SE¼;
Sec. 36, lots 1, 2, 3, 4, 9, 10, and 11, E½E½, NW¼NE¼, NE¼NW¼.
Containing 947.85 acres.

T. 1 S., R. 13 W.
Sec. 3, SW¼NE¼;
Sec. 10, SW¼, N½SE¼;
Sec. 15, W½W½NW¼, W½SW¼;
Sec. 16, E½, SW¼;
Sec. 21, E½, SW¼;
Sec. 22, W½W½;
Sec. 27, NW¼NW¼;
Sec. 28, N½N½;
Sec. 29, SW¼SE¼;
Sec. 30, lots 2, 3, and 4, S½NE¼, SE¼NW¼, E½SW¼;
Sec. 31, lot 2, W½NE¼, E½NW¼;
Sec. 32, NW¼NE¼.
Containing 2,288.09 acres.

T. 1 S., R. 14 W.
Sec. 24, SW¼NE¼, NE¼SW¼, SE¼;
Sec. 25, NE¼, E½NW¼, SW¼NW¼;
Sec. 36, all.
Containing 1,160 acres.

T. 2 S., R. 14 W.
Sec. 13, W½SW¼;
Sec. 14, E½, E½NW¼, NW¼NW¼;
Sec. 15, S½NE¼, E½SE¼;
Sec. 16, E½SW¼, SE¼;
Sec. 21, SE¼NE¼, NW¼NW¼, SE¼;
Sec. 23, E½, W½SW¼;
Sec. 24 and 25, all;
Sec. 26, E½E½NE¼, E½NE¼SE¼, S½SE¼;
Sec. 27, E½NE¼, SW¼NE¼, W½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 34, E½NE¼, SW¼NW¼, N½SW¼, SE¼;
Sec. 35, all;
Sec. 36, NE¼NE¼, S½N½, S½.
Containing 4,860 acres.

T. 3 S., R. 14 W.
Sec. 16, N½.
Containing 320 acres.

T. 3 S., R. 15 W.
Sec. 36, E½SE¼, NW¼SE¼.
Containing 120 acres.

T. 4 S., R. 12 W.
Secs. 33, 34, and 35, all.,
Containing 1,920 acres.

T. 4 S., R. 14 W.
Sec. 16, S½SW¼, SW¼SE¼;
Sec. 17, E½SE¼NE¼.
Containing 140 acres.

T. 4 S., R. 15 W.
Sec. 36, E½, E½NW¼, S½SW¼,
Containing 480 acres.

T. 5 S., R. 12 W.
Sec. 1, lots 3 and 4, S½NW¼, S½;
Sec. 2, lots 1, 2, and 4, S½NE¼, SW¼NW¼, W½SW¼, SE¼;
Sec. 3, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 5, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 9, E½;
Sec. 10, N½N½, SE¼NE¼, SW¼NW¼, SW¼, E½SE¼;
Sec. 11, E½, W½W½;
Sec. 12, W½;
Sec. 16, all;
Sec. 21, N½NW¼;
Sec. 22, NW¼NE¼.
Containing 5,241.93 acres.

T. 5 S., R. 13 W.
Sec. 1, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 4, lots 3 and 4, S½NW¼, SW¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 8, N½;
Sec. 12, all.
Containing 3,768.44 acres.

T. 5 S., R. 14 W.
Sec. 2, SE¼NW¼;
Sec. 8, SW¼SW¼;
Sec. 14, E½, NE¼NW¼;
Sec. 16, all;
Sec. 36, NE¼, N½NW¼, E½SE¼.
Containing 1,400 acres.

T. 5 S., R. 15 W.
Sec. 1, SE¼SW¼, N½SE¼;
Sec. 2, W½NE¼, NE¼SE¼;
Sec. 13, SE¼NW¼.
Containing 280 acres.

T. 6 S., R. 14 W.
Sec. 2, S½NW¼NE¼SE¼, SW¼NE¼SE¼, NW¼SE¼NE¼SE¼, S½SE¼NE¼SE¼, S½NE¼NW¼SE¼, SE¼NW¼SE¼;
Sec. 16, lots 3 and 4.
Containing 133.58 acres.
Aggregating 31,951.52 acres.

Interim Conveyance No. 230 of August 30, 1979

Seward Meridian, Alaska (Surveyed)

T. 1 N., R. 11 W.
Those portions of Tract A more particularly described as (protracted):
Sec. 5, E½, E½W½, excluding ASLS 76-15, Tract E of ASLS 77-133, and lake;
Sec. 7, N½SW¼;
Sec. 8, NE¼, excluding ASLS 75-122, Tracts A and B of ASLS 78-8, ADL leases 44561, 44585, 47083, 47084, and 59740, and lake.
Containing approximately 636.34 acres.

T. 1 N., R. 12 W.
Sec. 1, lots 3 and 4, S½NW¼;
Sec. 2, lots 1, 2, and 3, S½NE¼, SE¼NE¼, E½SW¼, SE¼;
Sec. 3, lots 3 and 4, S½NW¼, SW¼;
Sec. 4, SE¼;
Sec. 5, lot 1, SE¼NE¼, SW¼NW¼, W½SE¼NW¼, E½SE¼;
Sec. 9, E½NW¼, SW¼;
Sec. 10, W½NE¼, E½W½, SW¼SW¼, NW¼SE¼;
Sec. 11, E½E½;
Sec. 16, S½;
Sec. 17, SW¼SW¼;
Those portions of Tract A more particularly described as (protracted):
Sec. 12, SE¼;
Sec. 13, E½, E½W½;
Sec. 14, W½W½.
Containing approximately 3,221.72 acres.

T. 2 N., R. 11 W.
Those portions of Tract A more particularly described as (protracted):
Sec. 19, S½;
Sec. 20, NW¼, S½;

Secs. 29 and 30, all;
Sec. 32, all, excluding Tracts A, B, C, and D of ASLS 77-133, ADL lease 41046, and lake.
Containing approximately 2,658.23 acres.

T. 3 N., R. 12 W.
Sec. 16, lots 3 and 17 of Block 1, Cohoe Alaska Subdivision.
Containing approximately 4.113 acres.

T. 5 N., R. 8 W.
Sec. 1, lots 1, 2, 3, and 4;
Sec. 2, lots 3 and 4;
Sec. 3, S½SW¼, SE¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, S½;
Sec. 5, lot 1, SE¼NE¼, E½SW¼, SE¼;
Sec. 6, lots 3, 4, 5, and 10, SE¼NW¼;
Sec. 8, E½, E½SW¼;
Sec. 9, SE¼NE¼, NW¼NW¼, E½SW¼, W½SE¼;
Sec. 16, E½, E½W½, NW¼NW¼;
Sec. 17, N½NE¼;
Sec. 21, lots 2, 13, and 14;
Sec. 22, lots 2 and 3;
Sec. 23, E½;
Sec. 25, lots 1, 2, and 3, NE¼NE¼, S½N½, N½S½, E½SW¼SW¼, NW¼SW¼SW¼, N½SW¼SW¼SW¼, SE¼SW¼, S½SE¼;
Sec. 26, lots 2 and 3, NE¼NW¼;
Sec. 27, W½SW¼;
Sec. 28, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, S½NE¼, NW¼NW¼, SE¼SW¼, SE¼;
Sec. 29, NE¼, NE¼SE¼;
Sec. 32, lots 1, 2, 4, 5, and 6, NW¼NW¼, excluding lake;
Sec. 33, lot 1, E½, E½NW¼, SW¼NW¼, SW¼;
Sec. 34, W½NW¼, SE¼;
Sec. 35, lots 10 and 13, lot 16, excluding ADL #54351, lot 17, excluding ADL #40108, lots 18, 19, 20, 21, and 22, NW¼, S½SE¼;
Sec. 36, lots 5 and 7, lot 6, excluding ADL #00206, E½NE¼, NW¼NE¼, S½SW¼.
Containing approximately 6,377.41 acres.

T. 5 N., R. 9 W.
Sec. 6, lots 2, 3, 5, 6, and 7, SW¼NE¼, E½SW¼, SE¼;
Sec. 7, lots 1 and 2, NE¼, E½NW¼, NE¼SE¼;
Sec. 8, W½NW¼, NW¼SW¼, including Tracts A and B of ASLS 75-108;
Sec. 9, SE¼NE¼SE¼, northerly of the Sterling Highway right-of-way;
Sec. 16, E½NE¼, SW¼NE¼, W½NW¼, S½;
Sec. 28, W½NW¼, SE¼ NW¼;
Sec. 32, lots 1, 2, 5, 6, and 7, N½NE¼, E½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 34, all.
Containing approximately 2,574.99 acres.

T. 2 S., R. 11 W.
Those portions of Tract A more particularly described as (protracted):
Secs. 19 and 20, all;
Secs. 29 and 30, all.
Containing approximately 2,514 acres.

T. 2 S., R. 13 W.
Those portions of the surveyed township more particularly described as (protracted):
Secs. 21 to 24, inclusive, all;
Secs. 27, 28, and 29, all;
Secs. 32 and 33, all.
Containing approximately 5,760 acres.

T. 2 S., R. 13 W.
Sec. 3, W½SW¼;
Sec. 4, NE¼SE¼;
Sec. 5, lots 2, 3, and 4;
Sec. 8, W½SW¼NW¼.
Those portions of Tract A more particularly described as (protracted):
Secs. 34 and 35, all.
Containing approximately 1,540.30 acres.

T. 3 S., R. 11 W.
That portion of Tract A more particularly described as (protracted):
Sec. 13, all, excluding U.S. Survey No. 3028.
Containing approximately 635 acres.

T. 3 S., R. 12 W.
Those portions of the surveyed township more particularly described as (protracted):
Secs. 4 and 5, all.
Containing approximately 1,280 acres.

T. 3 S., R. 13 W.
Those portions of the surveyed township more particularly described as (protracted):
Sec. 2, all;
Sec. 3, SE¼;
Sec. 5, all;
Secs. 8, 9, and 10, all;
Sec. 16 to 20, inclusive, all.
Containing approximately 6,530 acres.

T. 4 S., R. 11 W.
Those portions of Tract A more particularly described as (protracted):
Sec. 11, N½, N½S½, S½ SW¼, SW¼SE¼;
Sec. 14, W½E½NW¼, W½NW¼;
Sec. 23, W½NW¼;
Sec. 33, S½SW¼;
Sec. 35, all, excluding U.S. Survey No. 3610, U.S. Survey No. 480.2, Tracts A, B, C, and D, of ASLS 73-5, ADL 55932, ADL leases 50689, 50877, and 57343, and Kachemak Bay.
Containing approximately 1,217 acres.

T. 4 S., R. 13 W.
Sec. 31, lots 1, 2, and 3, SE¼ of lot 4, NE¼, W½ E½ NW¼, NE¼SW¼, E½SE¼SW¼, SW¼SE¼SW¼, N½SE¼;
Secs. 32, 33, and 34, all.
Containing approximately 2,400.10 acres.
Aggregating approximately 37,349.203 acres.

The above description does not include those lands removed by the State of Alaska's Correction Deed of Title accepted by the United States on March 12, 1981.

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-29128, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal Corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight(GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small, and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small, and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

100 Foot Proposed Road—The uses allowed on a one-hundred (100) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small, and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks. All roads in this category must be proposed for construction within a five-year period. If the road is not constructed, the easement will be reduced to a twenty-five (25) foot wide trail and the uses will be consistent with the trail width. If after the road has been constructed a lesser width is sufficient to accommodate the road, the easement shall be reduced to a sixty (60) foot wide easement.

a. (EIN 3 C5) An easment sixty (60) feet in width for an existing road traversing Sec. 33, T. 4 S., R. 11 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 8 D9, C5) An easement fifty (50) feet in width for an existing trail, beginning at the Sterling Highway in Sec. 20, T. 2 S., R. 14 W., Seward Meridian, continuing southeasterly to trail EIN 8 D9 in Sec. 15, T. 3 S., R. 13 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 9 C5) An easement sixty (60) feet in width for an existing road traversing Sec. 36, T. 4 S., R. 15 W., and Sec. 2, T. 5 S., R. 14 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 10 C5) An easement sixty (60) feet in width for an existing road traversing Secs. 16 and 22, T. 5 S., R. 12 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

e. (EIN 10a C5) An easement sixty (60) feet in width for an existing road traversing Sec. 16 T. 5 S., R. 12 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

f. (EIN 12 C5) An easement sixty (60) feet in width for an existing road traversing Sec. 36 T. 5 S., R. 14 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

g. (EIN 14 C5) An easement sixty (60) feet in width for an existing road traversing Sec. 2 T. 6 S., R. 14 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

h. (EIN 15 C5) An easement sixty (60) feet in width for an existing road traversing Sec. 2 T. 7 N., R. 11 W., Seward Meridian. The uses allowed are

those listed above for a sixty (60) foot wide road easement.

i. (EIN 16 C5) An easement sixty (60) feet in width for an existing road traversing Sec. 23, T. 4 S., R. 11 W., Seward Meridian. The uses allowed are those listed above for sixty (60) foot wide road easement.

j. (EIN 17 C5) An easement fifty (50) feet in width for an existing trail traversing Native land in Secs. 33 and 34, T. 4 S., R. 13 W., Seward Meridian, and Secs. 4, 5, and 8, T. 5 S., R. 13 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

k. (EIN 17a E) An easement for an existing access trail fifty (50) feet in width from its intersection with EIN 33 C5 in Sec. 33, T. 2 S., R. 12 W., Seward Meridian, southwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

l. (EIN 18 C5) An easement sixty (60) feet in width for an existing road traversing Secs. 23 and 24, T. 2. S., R. 12 W., Seward Meridian and Secs. 19 and 30, T. 2 S., R. 11 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

m. (EIN 33 C5) An easement fifty (50) feet in width for an existing trail beginning at Ninilchik's EIN 13 D1 and traversing Secs. 29, 32 and 33, T. 2 S., R. 12 W., Seward Meridian, and Sec. 4, T. 3 S., R. 12 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

n. (EIN 34 L) An easement twenty (20) feet in width for an existing overhead electric distribution line which traverses Secs. 27, 34, and 35, T. 5 N., R. 8 W., Seward Meridian. The uses allowed are those associated with the construction, operation, and maintenance of a powerline.

o. (EIN 35 L) An easement one-hundred (100) feet in width for a proposed overhead 115 KV transmission line which will traverse Sec. 35, T. 4 S., R. 12 W., Seward Meridian, and Secs. 3 and 10, T. 5 S., R. 12 W., Seward Meridian. The uses allowed are those uses associated with the construction, operation, and maintenance of a powerline. If not actually planned for construction within 5 years of the date of conveyance, this easement will be dropped.

p. (EIN 36 L) An easement twenty (20) feet in width for an existing overhead electric distrbution line which traverses the NE¼, Sec. 18, T. 4 N., R. 11 W., Seward Meridian. The uses allowed are those uses associated with the construction, operation, and maintenance of a powerline.

q. (EIN 37 L) An easement twenty (20) feet in width for an existing overhead electric distribution line which traverses the NE¼, Sec., 22, T. 5 S., R. 12 W., Seward Meridian. The uses allowed are those uses associated with the construction, operation, and maintenance of a powerline.

r. (EIN 38 D4) An easement twenty-five (25) feet in width for an existing trail which begins at road EIN 18 C5 in Sec. 19, T. 2 S., R. 11 W., Seward Meridian and traverses northerly through Sec. 19. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

s. (EIN 39 D4) An easement sixty (60) feet in width for an existing road which traverses Sec. 25, T. 8 N., R. 11 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

t. (EIN 39a D4) An easement one-hundred (100) feet in width for a proposed road from existing road EIN 39 D4 continuing westerly to lots 5 and 6, Sec. 25, T. 8 N., R. 11 W., Seward Meridian. The uses allowed are those listed above for a one-hundred (100) foot wide proposed road easement.

u. (EIN 41 L) An easement sixty (60) feet in width for an existing road beginning at a Sec. line road located between Secs. 26 and 35, T. 5 N., R. 8 W., Seward Meridian, and traversing southeasterly through lot 10, Sec. 35, T. 5 N., R. 8 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

When this decision becomes final, revised conveyance documents will be issued to Cook Inlet Region, Inc., for the above-described lands reflecting the easements identified above. The revised conveyance documents will remain subject to all other rights, terms, conditions, and covenants contained in Patent No. 50–79–0138 and Interim Conveyance No. 230, respectively.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until September 28, 1981 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 81-25314 Filed 8-27-81; 8:45 am]

BILLING CODE 4310-84-M

[Desigation Order NV–030–8001; 8340(N–033)]

Nevada Off Road Vehicle Designations

August 21, 1981.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off road vehicle designation decision.

Decision.

Notice is given regarding use of motorized vehicles on certain lands managed by the Bureau of Land Management, Carson City District in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR 8340. The following lands contain sensitive nationally significant historic and archaeological resources and are designated closed to motorized travel unless specifically authorized by the Carson City District Manager.

1. GRIMES POINT ARCHAEOLOGICAL—490 ACRES

This area is located 10 miles southeast of Fallon, Nevada, in Churchill County. The lands closed to motorized vehicle travel are identified on the ground by fencing and signs and are described as those lands south of County Road 808 within SE¼SW¼, SE¼, Sec. 20; SW¼NE¼, S½NW¼, SW¼,

W½SE¼, Sec. 21; N½NE¼, NE¼NW¼, Sec. 29, T. 16 N., R. 30 E., M.D.M.

2. SAND SPRINGS PONY EXPRESS HISTORIC SITE—50 ACRES

This area is located 30 miles southeast of Fallon, Nevada, in Churchill County. The lands to be closed to motorized vehicle travel are identified on the ground by fencing and signs and are described as those posted lands located in a portion of the N½SW¼, Sec. 32, T. 17 N., R. 32 E., M.D.M.

These public lands are not closed to non-motorized use. Foot traffic is welcome and interpretive programs are available at all sites. Environmental Assessments and vehicle closure plans describing the impacts of these designations are available for inspection at the Carson City District Office listed below.

These designations become effective today, upon publication in the **Federal Register**, and will remain in effect rescinded or modified by the authorized officer. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

For further information contact Chuck Otto, Outdoor Recreation Planner, Carson City District Office, 1050 East William Street, Suite 335, Carson City, Nevada 89701 (702) 882–1631.

Dated: August 21, 1981.

Tom Owen,

District Manager.

[FR Doc. 81–25130 Filed 8–27–81; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Classification Vacated

August 20, 1981.

Exchange and Public Sale Classification N-2373 is hereby vacated in its entirety. The following described land is affected.

Mount Diablo Meridian

T. 31 N., R. 46 E.
Sec. 29, S½;
Sec. 31, All.
T. 32 N., R. 44 E.
Sec. 25, NE¼
Sec. 26, N½, N½SW¼, SE¼SW¼, SE¼.

The area described contains 1,731.71 acres.

This classification is determined to be unnecessary since a portion of the land has been patented, a portion has been leased for public purposes, and the remaining 600 acres were evaluated and are no longer being considered for disposal through exchange.

Subject to valid existing rights, the following described 600 acres are hereby restored to the operation of the public land laws at 10 a.m. on September 28, 1981.

All valid applications received from the date of this publication until and including 10 a.m. on September 28, 1981 shall be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

Mount Diablo Meridian

T. 32 N., R. 44 E.
Sec. 26, N½, N½SW¼, SE¼SW¼, SE¼.

At 10:00 a.m. on September 28, 1981, the land also will be open to location under the United States mining laws and application under the mineral leasing laws.

Inquires and applications concerning this land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Technical Services.

FR Doc. 81–25035 Filed 8–27–81; 8:45 am]

BILLING CODE 4310–84–M

[N–5758; N–7030]

Nevada; Classifications Vacated

August 20, 1981.

Exchange Classifications N–5758 and N–7030 are hereby vacated in their entirely. The following described land is affected:

Mount Diablo Meridian

T.32., R. 44 E.
Sec. 36, Lot 2, W½NE¼, NW¼.
T. 31 N., R. 45 E.
Sec. 6, All.
T. 19 N., R. 46 E.
Sec. 13, W½SE¼NE¼, NE¼SW¼NE¼.
T. 19 N., R. 47 E.
Sec. 17, S½SW¼SW¼;
Sec. 18, Lots 6, 7;
Sec. 20, N½NW¼NW¼, NE¼NW¼, N½SE¼NW¼.
T. 20 N., R 47 E.
Sec. 15, S½SW¼NW¼, NW¼SW¼NW¼, NE¼NW¼SE¼;
Sec. 23, SW¼SE¼SE¼;
Sec. 25, W½SW¼NW¼;
Sec. 26, W½NE¼NE¼, SE¼NE¼NE¼, NE¼SE¼NE¼.

The area described contains 1220.98 acres.

This classification is inappropriate as the authority for exchanges is now the Federal Land Policy and Management Act of 1976, instead of section 8 of the Taylor Grazing Act. The land is not currently being considered for disposal through exchange.

Subject to valid existing rights, the land described above is hereby restored to the operation of the public land laws at 10 a.m. on September 28, 1981. All valid applications received from the date of this publication until and including 10 a.m. on September 28, 1981 shall be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on September 28, 1981, the land also will be open to location under the United States mining laws and application under the mineral leasing laws.

Inquiries and applications concerning this land should be addressed to the Bureau of Land Management, P.O. box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 81–25036 Filed 8–27–81; 8:45 am]

BILLING CODE 4310–84–M

New Mexico; Intent To File Survey Plat

July 21, 1981.

Notice is hereby given, pursuant to § 1813.1–2 of Code 43 Federal Regulations of intent to file the survey plat of Township 3 South, Range 1 East, New Mexico Principal Meridian, New Mexico, accepted May 19, 1981.

The plat, in four sheets, representing the dependent resurvey of a portion of the New Mexico Principal Meridian, a portion of the south boundary of the Town of Socorro Grant, a portion of the south boundary, a portion of the subdivisional lines, and certain boundaries of small holding claims in Sections 30 and 31, the subdivision of Sections 29, 30 and 31; the survey of accreted lands and riparian surveys in Sections 29 and 31, T. 3 S., R. 1 E., New Mexico Principal Meridian, New Mexico, for Group Number 768, was accepted May 19, 1981.

This survey was executed to meet certain administrative needs of the Bureau.

The plat will be officially filed in the Records Section of the Bureau of Land Management, New Mexico State Office, Santa Fe, New Mexico, on September 7, 1981.

Purpose of this notice is to inform the public of the foregoing described action. Interested persons desiring to oppose filing of the plat should address their views promptly to the Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Geoffrey B. Middaugh,

Acting Chief, Division of Management Services.

[FR Doc. 81–25038 Filed 8–27–81; 8:45 am]

BILLING CODE 4210–84–M

Wisconsin and Michigan Islands; Wilderness Inventory Proposals and Commencement of Public Comment Period

This notice announces the beginning of a 90-day public comment period concerning the initial wilderness inventories of public islands administered by the Bureau of Land Management (BLM) in Wisconsin and Michigan; and for an intensive inventory of two islands in Lake Michigan. The announcement of the beginning of the wilderness inventory in the two states was published in the March 27, 1979 **Federal Register**. The inventory was conducted in 1979 and 1980 and is now being announced under the authority of Section 603 of the Federal Land Policy and Management Act and in accordance with the guidelines in the September 27, 1978 BLM *Wilderness Inventory Handbook;* Organic Act Directive No. 78–61, Change 3; and BLM Washington Office memorandum dated July 22, 1981.

Following are the proposed wilderness inventory decisions, by state:

1. *Wisconsin:* All BLM islands in Wisconsin should be dropped from further wilderness study because they clearly and obviously do not have wilderness qualities:

No. of islands	Total acres
881	3,548.49

2. *Michigan:* (a) All BLM islands in Michigan (excluding islands shown in Item b below) should be dropped from further wilderness study because they clearly and obviously do not have wilderness qualities.

No. of islands	Total acres
849	960.06

(b) Waugoshance and Temperance Islands, both located in Lake Michigan, have been intensively inventoried and are proposed to be dropped from further consideration as BLM wilderness areas. Under terms of the Recreation and Public Purposes Act, or other transfer authority, the State of Michigan could logically manage the islands and protect their natural values as part of the Wilderness State Park.

No. of islands	Total acres
2	290

Situation evaluations were prepared for all BLM islands, in groupings determined according to similarities in characteristics. All of the situation evaluations are published in two separate state-wide inventory reports, including maps, available from the offices listed below. In addition, detailed maps of individual islands are available free upon request.

During the formal comment period, written comments are particularly encouraged. Because of the widespread area covered by the inventories and the long distances to BLM offices, public meetings are not planned. Instead, the inventory decision reports will be widely distributed, with public comment worksheets, to county officials in all counties where islands are located, State Officials, other Federal agencies, interest groups and individuals who have expressed an interest in the public lands, and through telephone contacts, press releases, and other media announcements. Every effort will be made to reach as many interested parties as possible during the 90-day review period. In addition, all inventory files, maps, photos and other data used in the inventory are available for public inspection at any time during regular office hours at the Duluth Field Office, Duluth, Minnesota.

In preparing written comments, it is recommended that separate public comment worksheets be used for each inventory unit or island. The worksheets are designed to assist the respondent in commenting specifically about the characteristics of each island. All comments should be sent to the Acting Manager, Duluth Field Office, Bureau of Land Management, 125 Federal Building, Duluth, Minnesota 55802.

All public comments received during the 90-day period will be recorded, analyzed, evaluated, and filed for future reference. All comments will be treated equally; and responses received after the comment period may be considered as long as they can be reviewed without delaying the final decision.

After the comment period closes in November, the Bureau will publish a final decision in the **Federal Register**. At that time, those islands not designated for further inventory or study will be released from wilderness-related management restrictions as set forth in Section 603(c) of the Federal Land Policy and Management Act.

For additional information and maps, contact: Acting Manager, Duluth Field Office, Bureau of Land Management, 125 Federal Building, Duluth, Minnesota 55802, telephone (218) 727–6692, Ext. 378; or Eastern States Director, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, telephone (703) 235–2840.

Pieter J. VanZanden,

Acting Eastern States Director.

[FR Doc. 81-24789 Filed 8-27-81; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-DES 81-35]

Creston Steam Electric Station, Creston, Wash.; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement jointly with the State of Washington Energy Facility Site Evaluation Council on the proposed Creston Steam Electric Station to be constructed and operated by the Washington Water Power Company. The Creston Steam Electic Station Project is intended to assist in meeting regional energy supply deficiencies projected to occur in the years following 1987. Written comments may be submitted by November 30, 1981, to Mr. William Fitch, Executive Secretary, Energy Facility Site Evaluation Council, Building 1, Row 6, 4224 6th Avenue, Lacey, Washington, 98504.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Environmental Affairs,, Room 762, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991

Grand Coulee Project Office, Bureau of Reclamation, P.O. Box 620, Grand Coulee, WA 99133, Telephone: (509) 533–1360

Office of Regional Director, Bureau of Reclamation, Box 043—550 West Fort Street, Boise, ID 83724, Telephone: (208) 334–2108

Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208, Telephone: (503) 234–3361

Energy Facilities Site Evaluation Council, Building 1, Row 6, 4224 6th Avenue, Lacey, Washington 98504, Telephone: (206) 753–7384

Single copies of the statement may be obtained upon request to the Commissioner or Regional Director, Bureau of Reclamation, or Executive Secretary, Energy Facility Site Evaluation Council. Copies will also be available for inspection in libraries in the project vicinity.

Dated: August 21, 1981.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

[FR Doc. 81-25224 Filed 8-27-81; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Texas: Application; Matagorda Exploration, Inc.

Notice is hereby given that under section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576), that the Matagorda Exploration, Inc., has applied for a permit to construct, operate, and maintain a 4-inch pipeline right-of-way, 30 feet in width, with a 50-foot-wide work area, adjacent to the existing Houston Pipeline line from St. Charles Bay to a point near the existing Houston Pipeline facility; a facilities site which would measure approximately 150 feet by 200 feet to hold equipment for the separation and storage of liquid hydrocarbons; and ingress and egress to the facilities site for the removal of those liquid hydrocarbons. Matagorda Exploration, Inc., requests that these activities be permitted on lands of the Aransas National Wildlife Refuge in Aransas County, Texas.

The purpose of this notice is to inform the public that the U.S. Fish and Wildlife Service will be proceeding with consideration of whether this application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within 30 days by sending their comments with their name and address to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

August 17, 1981.

Gordon H. Hansen,

Acting Deputy Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-25138 Filed 8-27-81; 8:27 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: August 25, 1981.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intended to perform nonmember, non-exempt, interstate transportation must file the Notice, form BOP-102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Office of Consumer Protection, Washington, D.C. 20423. The Notices are filed in Ex Parte No. MC-75 (Sub-1) and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

1. Miss Ala Agricultural Distributors, LTD, Plymouth Agricultural Transportation Services, Inc.: Complete Legal Name of Cooperative Association or Federation of Cooperative Associations.

P.O. Box 947, Plymouth, NC 27962: Principal Mailing Address (Street No., City, State, and Zip Code).

Plymouth Agricultural Transportation Services, Inc., Hwy. 64 W. Plymouth, NC 27962: Where Are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code).

Ronald W. Toppin, P.O. Box 947, Plymouth, NC 27962: Person to Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address).

2. Refrigerated Food Transport, Inc.: Complete Legal Name of Cooperative Association or Federation of Cooperative Associations.

P.O. Box 629, Carmel Valley, CA 93924: Principal Mailing Address (Street No., City, State, and Zip Code).

28090 Robinson Canyon Rd., Carmel Valley, CA 93923: Where Are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code).

Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924: Person To Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address).

3. South Texas Farm Frt. Lines Inc.: Complete Legal Name of Cooperative Association or Federation of Cooperative Associations.

Box 678, Combes, TX 78535: Principal Mailing Address (Street No., City, State, and Zip Code).

3700 North Commerce, Harlingen, TX 78535: Where Are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code).

Jim Harlin, Box 678, Combes, TX 78535: Person To Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address).

4. Western Agricultural Lines, Inc.: Complete Legal Name of Cooperative Association or Federation of Cooperative Associations.

4734 N. Cornelia, Fresno, CA 93711: Principal Mailing Address (Street No., City, State, and Zip Code).

4734 N. Cornelia, Fresno, CA 93711: Where Are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code).

Rebecca Sue Helms, 4734 N. Cornelia, Fresno, CA 93711: Person To Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25184 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

Public Tariff File; Closing

This is notice that effective with the close of business on Friday September 11, 1981, the Commission is closing its Public Tariff File located at Suite 50, 1015 15th Street, N.W., Washington, DC 20006. All mail (Government Rate Tenders, U.S. Postal Contracts, etc.) intended for that office should be addressed to the Bureau of Traffic, Tariff Examining Branch, Interstate Commerce Commission, Washington, DC 20423.

Effective September 14, 1981, tariffs and documents filed with the Commission will be available for public use at the main office in Room 4359, 12th and Constitution Ave., N.W., Washington, DC daily from 8:30 AM to 5:00 PM, Monday through Friday, excluding Federal Holidays.

Further information may be obtained by contacting Mr. William P. Geisenkotter, Chief, Section of Tariffs, (202) 275-7739.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25185 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, 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). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules

provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 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. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. 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, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

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 significantly 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 the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves 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: August 19, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14677, filed August 12, 1981. HEARTLAND EXPRESS, INC., of IOWA (Heartland) (P.O. Box 89B, R.R. #6, Iowa City, IA 52240)—Purchase (Portion)—HI LO TRANSPORT, INC. (Hi Lo) (Box 1, Wall Lake, IA 51466). Representative: Michael J. Ogborn, P.O. Box 82028, 1200 N Street, Lincoln, NE 68501. Heartland seeks authority to purchase a portion of the interstate operating rights of Hi Lo. Heartland Express, Inc., sole stockholder of Heartland, and in turn Gerdin Investment Corporation, sole stockholder of Heartland Express, Inc., and in turn Russell Gerdin, sole stockholder of Gerdin Investment Corporation, seek authority to acquire control of said rights through the transaction. Heartland is purchasing that portion of Hi Lo's certificate in No. MC–143651 (Sub-No. 16F) which authorizes the transportation, as a motor common carrier of *meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Parts A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and *foodstuffs,* from St. Joseph, MO, Omaha, and Madison, NE, Worthington, MN, Huron, SD, and Sioux City, IA, to those points in the United States in and east of KS, ND, NE, OK, SD, and TX, restricted to traffic originating at the facilities used by Armour & Co. at the above named points. Heartland is a motor common carrier pursuant to certificated issued in MC–115554 and sub-numbers thereunder.

Note.—An application for temporary authority has been filed.

[FR Doc. 81–25181 Filed 8–27–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 40 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative 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.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. 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 opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

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 No. 2. Members Carleton, Kelly, Williams.

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".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPY–4–332

Decided: August 20, 1981.

MC 157577, filed August 6, 1981. Applicant: DENNIS RAY d.b.a. GOLDEN WEST, 1753 Clinton St., Aurora, CO 80010. Representative: Dennis Ray, (same address as applicant) (303) 340–4025. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 138297 (Sub-11), filed August 7, 1981. Applicant: CENTRAL FLORIDA COACH LINES, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph A. Keating, Jr., L21 S. Main St., Taylor, PA 18517 (717) 344–8030. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPY–4–334

Decided: August 21, 1981.

MC 127007 (Sub-3), filed August 10, 1981. Applicant: COLONIAL VAN & STORAGE OF FRESNO, INC., 214 So. Broadway, Fresno, CA 93721. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111 (415) 986–1414. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Volume No. OPY–4–336

Decided: August 21, 1981.

MC 96607 (Sub-24), filed August 12, 1981. Applicant: RUCKER BROTHERS TRUCKING, INC., 1820 Stewart St. E., Tacoma, WA 98421. Representative: Kenneth R. Mitchell, 2317 Milwaukee Way, Tacoma, WA 98421 (206) 922–5822. Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OPY–4–337

Decided: August 24, 1981.

MC 154226 (Sub-2), filed August 3, 1981. Applicant: T. COLEMAN EXPRESS, INC., 8613 River Road, Amarillo, TX 79108. Representative: Barry Weintraub, 8133 Leesburg Pike, Vienna, VA 22180 (703) 442–8330. Transporting *general commodities* (except classes A and B explosives), between Snyder, Mist, Hamburg, AR; Fallbrook, CA; Bell, FL; Primose, Luthersville, GA; Astoria, Easton, Five Points, Clare, Esmond, Lindenwood, IL; Minerva, Clemons, St. Anthony, Zearing, Stanhope, Stratford, Corwith, IA; Tyro, Peru, Sedan, Cedarvale, Dexter, KS; Millstone, Kona, Fleming-Neon, KY; Taylor, Maywood, Durham, Ewing, Lewistown, La Belle, Knox City, Edina, Hurdland, Brashear, MO; Elgin, Cedar Bluff, Colon, Ceresco, Davey, NE; Livonia, NY; Stokesdale, NC; Cheyenne, Butler, Reydon, OK; Keystone, SD; Allison, Briscoe, Mobeetie, TX; Krakow, Green Valley, Gillett, Wittenberg, Tigerton, Marion, Burkhardt, Deer Park, Clear Lake, Clayton, Comstock, Cumberland, Barronett Shell Lake, WI; on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this applicant is to substitute motor carrier for abandoned rail carrier service.

MC 157186, filed August 14, 1981. Applicant: 14307 STILL MEADOW, Houston, TX 77079. Representative: Robert J. Birnbaum, 3636 Executive Center Dr., Suite 151, Austin, TX 78731 (512) 346–4800. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 157676, filed August 12, 1981. Applicant: SAMUEL A. BITHONEY, JR., 40 Cornell St., Arlington, MA 02174 Representative: Samuel A. Bithoney, Jr. (same address as applicant) (617) 646–1772. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 157716, filed August 14, 1981. Applicant: ARTHUR O. WINCKLER, 1405 Whitting Dr., Yankton, SD 57078. Representative: Arthur O. Winckler (same address as applicant) (605) 665–9367. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

[FR Doc. 81-25180 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative 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.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it 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. This presumption shall not be deemed to exist where the application is opposed. 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 opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new

entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

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.

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".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPY–161

Decided: August 20, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 157662, filed August 10, 1981. Applicant: COMBINED TRANSPORT SYSTEMS, INC., 905 Mateo St., Los Angeles, CA 90021. Representative: W. G. Reese III, P.O. Box 7000–438, Redondo Beach, CA 90277, 213–538–3622. Transporting (1) *iron and steel articles*, (2) *machinery*, and (3) *material handling equipment*, between points in CA, on the one hand, and, on the other, points in KY, IN, IL, OH, OR, UT, NV, AZ, NM, TX, MO, and TN.

MC 52793 (Sub-81), filed August 7, 1981. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547–2184. Transporting *household goods*, as defined by the Commission, between points in the U.S., under continuing contract(s) with Visual Graphics Corp., of Tamarac, FL.

MC 123383 (Sub-98), filed August 12, 1981. Applicant: BOYLE BROTHERS, INC., R.D. 2, Box 329C, Medford, NJ 08055. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, 212–466–0220. Transporting *general commodities* (except classes A and B explosives), between the facilities of Scott Paper Company, Georgia-Pacific Corporation, and Armstrong World Industries, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 139973 (Sub-94), filed August 12, 1981. Applicant: J.H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *chemicals and related products*, between Baltimore, MD, on the one hand, and, on the other, points in the U.S. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 146372 (Sub-3), filed August 10, 1981. Applicant: DON'S TRUCKING, INC., 1801 Coxendale Rd., Chester, VA 23831. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, 804–745–0446. Transporting *general commodities* (except classes A and B explosives), between points in VA, on the one hand, and, on the other, points in DE, GA, MD, NJ, NY, NC, OH, PA, SC, VA, WV, and DC.

MC 148522 (Sub-10), filed August 11, 1981. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting *food and related products*, between point in Hunterdon County, NJ, on the one hand, and, on the other, points in NY, MD, VA, and NC.

MC 150163 (Sub-8), filed August 7, 1981. Applicant: HORWITH TRUCKS, INC., R.D. No. 1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting *ores and minerals*, between points in Northampton County, PA, on the one hand, and, on the other, Baltimore, MD, and points in Litchfield County, CT, and Sussex County, NJ.

MC 152763 (Sub-3), filed August 6, 1981. Applicant: EXPRESSCO, INC., 105 Rhine St., Madison, TN 37115. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219, (615) 244–8100. Transporting *metal products, machinery, wire, chemicals, lumber, and building materials*, between points in Sumner County, TN, on the one hand, and, on the other, points in the U.S.

MC 154053, filed August 10, 1981. Applicant: EAST-TEX PLASTICS EXPRESS, INC., 3850 Williams, Orange, TX 77630. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *chemicals*, between Orange, TX, on the one hand, and, on the other, Houston and Galveston, TX, and Lake Charles, LA.

MC 155022, filed August 10, 1981. Applicant: PROCHNOW FARMS, INC., Rte. 5, Medford, WI 54451. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *such commodities* as are dealt in by manufacturers and distributors of animal feeds and farm supplies, between points in the U.S., under continuing contract(s) with (a) Bootzin's, Inc., of Stetsonville, WI, (b) Christensen Sales Corp., of Abbotsford, WI, (c) M. S. Colrud Company, of Rosholt, WI, (d) Consumers Co-op Exchange, of Merrill, WI, (e) Dorchester Cooperative, of Dorchester, WI, (f) General Feeds & Seeds, Inc., of Wausau, WI, (g) Medford Co-op Co., (h) Dale Prochnow, both of Medford, WI, (i) The Pillsbury Company, Feed Ingredient Division, of Bloomington, MN, (j) Prince Corporation, of Marshfield, WI, (k) Stratford Farmers Co-op, of Stratford, WI, (l) Van Gordon & Sons Elevator, of Neillsville, WI, and (m) Warner Brokerage Co., of New Ulm, MN.

MC 157603, filed August 7, 1981. Applicant: BOISE SCHOOL BUS & CHARTER SERVICE, 1109 Borah St., Boise, ID 83702. Representative: Terry R. Kirkman (same address as applicant), (208) 345–0159. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in UT and extending to points in the U.S.

MC 157642, filed August 10, 1981. Applicant: SALVATORE CASILE, 1131 Ritner St., Philadelphia, PA 19148. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *food and related products*, between Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, NJ, and NY.

Volume No. OPY–4–331

Decided: August 20, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

FF 267 (Sub-1), filed August 3, 1981. Applicant: HONOLULU FREIGHT SERVICE, P.O. Box 21156, Market Station, Los Angeles, CA 90021. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483–4700. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., restricted to shipments having a prior or subsequent movement by water.

MC 42487 (Sub-1045), filed August 6, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF

DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with General Foods Corporation, of White Plains, NY.

MC 125627 (Sub-1), filed August 7, 1981. Applicant: CROSSRIVER INDUSTRIES, INC., 600 Cape May St., Harrison, NJ 07029. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. Transporting *electric or electronic equipment and appliances*, between Chicago, IL, New York, NY, and points in DuPage County, IL, Greene County, MO, Berrien County, MI, and Northumberland County, PA, on the one hand, and, on the other, those points in the U.S. in and east of MI, IL, MO, TN, and AL.

MC 134197 (Sub-21), filed August 7, 1981. Applicant: JACKSON AND JOHNSON, INC., P.O. Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580, (716) 265–9510. Transporting *plastic products*, between the facilities of Mobile Chemical Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 134387 (Sub-91), filed August 7, 1981. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Los Angeles, CA 90017, (213) 627–8471. Transporting *insulation materials*, between points in CA, AZ, OR, WA, NM, NV, TX, CO, UT, and ID.

MC 134387 (Sub-92), filed August 7, 1981. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Los Angeles, CA 90017, (213) 627–8471. Transporting *machinery*, between points in Davis County, UT and points in CA, NV, OR, and AZ.

MC 141867 (Sub-30), filed August 6, 1981. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting *such commodities* as are dealt in or used by manufacturers of insulation and insulation materials, between points in Glenn County, CA, on the one hand, and, on the other, points in AZ, MT, and WY.

MC 146447 (Sub-8), filed August 7, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with InterRoyal Corporation, of Plainfield, CT, and The Charter Oak Shippers Cooperative Association, Inc., of Darien, CT.

MC 146907 (Sub-9), filed August 10, 1981. Applicant: PEBBLE HAULERS, INC., 2630 Delta Drive., Colorado Springs, CO 80910. Representative: Lee E. Lucero, 445 Capitol Life Center, Denver, CO 80203, (303) 861–8046. Transporting (1) *ores and minerals*, and (2) *coal and coal products*, between points in AR, AZ, CA, CO, ID, IL, IA, KS, KY, LA, MI, MN, MO, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 147197 (Sub-2), filed August 7, 1981. Applicant: ANDY BELITSKY, d.b.a. ANDY B. TRUCKING, 270A Lincoln St., S.W., Hartville, OH 44632. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and plastic products, between Cleveland, OH, on the one hand, and, on the other, points in the U.S.

MC 153517 (Sub-1), filed August 7, 1981. Applicant: ROSE CITY TRANSPORTATION, INC., 3721 National Rd. West, Richmond, IN 47374. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 154467 (Sub-1), filed August 7, 1981. Applicant: KENNETH KONTRATH AND DAVID L. ENNIS, A PARTNERSHIP d.b.a. KONTRATH TRANSPORTATION, 5835 S. Front St., Livermore, CA 94550. Representative: Kenneth Kontrath (same address as applicant), (415) 443–1370. Transporting *food and kindred products*, between points in Sonoma County, CA, on the one hand, and, on the other, points in AZ.

MC 155646, filed August 6, 1981. Applicant: TRADITIONAL TRANSPORT, INC., Prospect Rd., Blooming Grove, NY 10914. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting (1) *alcoholic, carbonated and malt beverages*, between points in NH, NJ, NY, and VT, and (2) *pulp, paper and related products*, between points in Essex County, VT, on the one hand, and, on the other, points in NJ and NY.

MC 157417, filed August 6, 1981. Applicant: RONALD F. SHORES, d.b.a. SIX S CONSTRUCTION CO., P.O. Box 142, Wilson, OK 73463. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034, (405) 348–7700. Transporting *Mercer commodities*, between points in OK, AR, TX, LA, MS, CO, WY, NM, and KS.

MC 157587, filed August 6, 1981. Applicant: GLEN GOINS, d.b.a. GOINS TRUCKING, 518 St. Louis Rd., Collinsville, IL 62234. Representative: Michael J. Reagan, 7705 W. Main St., Belleville, IL 62223. Transporting *food and related products*, between points in the U.S., under continuing contract with Castle and Cooke Foods of Metarie, LA, and Reisfeld and Sons, Inc. of New Orleans, LA.

MC 157627, filed August 10, 1981. Applicant: M. B. G. LEASING, INC., 18 Hackensack Ave., South Kearney, NJ 07032. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) APC Corporation, of Hawthorne, NY, (b) Greenwich Mills Company, of Secaucus, NJ, (c) Jamesway Corporation, of Secaucus, NJ, and (d) E. R. Squibb and Sons, Inc., of New Brunswick, NJ.

Volume No. OPY–4–333

Decided: August 21, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

MC 117647 (Sub-8), filed August 10, 1981. Applicant: BILLY J. ELKINS, P.O. Box 224, West Terre Haute, IN 47885. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *commodities in bulk*, between Vigo County, IN, on the one hand, and on the other, points in FL, GA, SC, NC, AL, MS, LA, AR, TX, OK, KS, MD, PA, NE, and MN.

MC 120257 (Sub-64), filed August 10, 1981. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116, (817) 731–8431. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 121827 (Sub-1), filed August 11, 1981. Applicant: BLOUNT MOTOR LINES, INC., Rt. 4, New Topside Rd.,

Louisville, TN 37777. Representative: James B. Edmondson (same address as applicant), (615) 984–1668. Transporting *general commodities* (except classes A and B explosives), between points in Bradley, Loudon, McMinn, Monroe, Polk, and Sevier Counties, TN.

MC 128927 (Sub-11), filed August 10, 1981. Applicant: MARTIN TRUCKING COMPANY, INC., Box 406, Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *malt beverages*, between points in Shelby County, TN, Waukesha, La Crosse, and Monroe Counties, WI.

MC 138627 (Sub-122), filed August 10, 1981. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives), between the facilities of Clow Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146807 (Sub-32), filed August 10, 1981. Applicant: S & W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Paul Seleski (same address as applicant), (717) 735–0188. Transporting *plastic and plastic products*, between points in NJ, PA, IN, TN, IL, KY, OH, MO, VA, WV, MD, NC, SC, AL, FL, LA, OK, IA, CO, NY, and CA.

MC 152207, filed August 10, 1981. Applicant: C.W.C. CO., 4700 Quebec Ave., No., Minneapolis, MN 55428. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *building materials*, between points in IA, IL, IN, MI, MN, MO, ND, SD, and WI.

MC 154857 (Sub-3), filed August 10, 1981. Applicant: ROGERS LEASING INCORPORATED, 2098 W. Broad St., Scotch Plains, NJ 07076. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. Transporting *such commodities* as are dealt in or used by publishers or distributors of printed matter, between points in the U.S., under continuing contract(s) with Simon & Schuster, of Bristol, PA.

MC 155107, filed August 10, 1981. Applicant: GEORGE R. BUCHANAN, d.b.a. SUPER "B" EXPRESS, P.O. Box 1195, Sherman, TX 75090. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *such commodities* as are dealt in by grocery stores and food brokerage houses, between points in Grayson County, TX, on the one hand, and, on the other, points in the U.S.

MC 157667, filed August 10, 1981. Applicant: ED ENGLER TRUCKING, R.D. No. 3, Box 3081, Bangor, PA 18013. Representative: Edward L. Engler (same address as applicant), (215) 588–2879. Transporting *cement*, between points in Northampton and Lehigh Counties, PA, and Union and Somerset Counties, NJ.

Volume No. OPY–4–335

Decided: August 21, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

MC 33317 (Sub-9), filed August 14, 1981. Applicant: BOLUS FREIGHT SYSTEMS, INC., 700 N. Keyser Ave., Scranton, PA 18508. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *sodium bicarbonate, sodium carbonate, cleaning and scouring compounds, and ammonium bicarbonate*, between points in OH, on the one hand, and, on the other, points in the U.S.

MC 34027 (Sub-19), filed August 14, 1981. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *rubber tires and inner tubes*, between Chicago, IL, Oklahoma City, OK, Nashville and Memphis, TN, Natchez, MS, and Bridgeport, CT, and points in Hancock County, OH and Macon County, IL, on the one hand, and, on the other, points in Marion County, IA.

MC 134387 (Sub-93), filed August 12, 1981. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *furniture*, between points in UT and CO.

MC 145797 (Sub-14), filed August 12, 1981. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Dr., Chesterfield, MO 63017. Representative: R. Thomas Grasso, 111 Hilltown Village Center, Suite 212, Chesterfield, MO 63017, (314) 532–7035. Transporting *foodstuffs* between points in NJ, NY, and PA, on the one hand, and, on the other, points in IL, IN, MI, MO, and OH.

MC 146807 (Sub-33), filed August 13, 1981. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Paul Seleski (same address as applicant), (717) 735–0188. Transporting *general commodities* (except classes A and B explosives), between points in Luzerne and Berks Counties, PA on the one hand, and, on the other, points in NJ, TX, AL, GA, OH, IL, NC, SC, VA, WV, and IN.

MC 151557 (Sub-2), filed Augsut 12, 1981. Applicant: BLAZER TRUCK LINES, INC., 23845 Ecorse Rd., Taylor, MI 48180. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084, (313) 649–6650. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of motor vehicles, between points in the U.S., under continuing contract(s) with General Motors Corportion, of Troy, MI.

MC 155337, filed August 11, 1981. Applicant: KENNESAW TRANSPORTATION, INC., 115 Dixie Dr., Woodstock, GA 30188. Representative: C. W. Patrick (same address as applicant), (404) 928–0322. Transporting (1) *food and related products*, (2) *chemicals and related products*, (3) *printed matter*, (4) *alcoholic beverages*, and (5) *rubber and plastic products*, between points in TN on the one hand, and, on the other, points in the U.S.

MC 157677, filed August 8, 1981. Applicant: STAR LEASING, INC., 200 Court Square Bldg., Nashville, TN 37201. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767–5600. Transporting *general commodities* (except classes A and B explosives), between points in Lauderdalt County, TN, on the one hand, and, on the other, points in the U.S.

Volume No. OPY–4–338

Decided: August 24, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

MC 20626 (Sub-1), filed August 14, 1981. Applicant: ALBERT E. WARD, INC., 23700 Corbin Dr., Bedford Heights, OH 44128. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *household goods*, between Cleveland, OH and points in Ashtabula, Geauga, and Lake Counties, OH, on the one hand, and, on the other, points in NC and VA.

MC 153196 (Sub-4), filed August 14, 1981. Applicant: PRINCL FREIGHTLINES, INC., 1641 Carole Lane, Green Bay, WI 54303. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53706, (608) 238–3119. Transporting (1) *pulp, paper and related products*, (2) *rubber and plastic products*, (3) *textile mill products*, and (4) *metal products*, between points in the U.S., under continuing contract(s)

with Fort Howard Paper Company, of Green Bay, WI.

MC 155756, filed August 14, 1981. Applicant: NEIL H. FULKERSON, INC., 3451 Losee Rd., Suite B, N. Las Vegas, NV 89030. Representative: Neil H. Fulkerson, 4034 S. Pecos, Las Vegas, NV 89121, (702) 642–2238. Transporting (1) *metal products*, (2) *machinery*, (3) *lumber and wood products*, (4) *building materials*, and (5) *waste or scrap materials*, between points in the U.S., under continuing contract(s) with P & S Metals and Supply, U S Machinery, Thimpson Machinery, Blaine Equipment, Las Vegas Plywood & Lumber, and Flintkote Building Products, all of Las Vegas, NV; Ace High Salvage, of N. Las Vegas, NV; California Railroad & Salvage, of Santa Ana, CA; Crest Steel Corporation, of Carson, CA; and Nu Wall Stucco Systems, of Phoenix, AZ.

MC 156006, filed August 14, 1981. Applicant: KELLY'S OF KEARNEY, INC., 3811 Ave. E., Kearney, NE 68847. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *passengers and their baggage*, in round trip charter or special operations, begining and ending at points in NE, and extending to points in the U.S.

MC 157726, filed August 17, 1981. Applicant: HORIZON TRAVEL OF COLORADO, INC., 2802 So. Vrain St., Denver, CO 80236. Representative: Marcin F. Sexson (same address as applicant), (303) 922–5651. To operate as a *broker*, at DEnver, CO, in arranging for the transportation of *passengers*, between points in CO, on the one hand, and, on the other, points in the U.S., including AK and HI.

MC 157736, filed August 14, 1981. Applicant: EDWARD M. MUSSELMAN, R.R. No. 1, Buffalo, IL 62515. Representative: Robert T. Lowley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *metal products, rubber products, and lumber and wood products*, and (2) *machinery*, between points in the U.S., under continuing contract(s) in (1) with Structural Rubber Products Company, of Springfield, IL, and in (2) with DeKalb AgResearch, Inc., of Illiopolis, IL.

Volume No. OPY–4–339

Decided: August 24, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

MC 96286 (Sub-6), filed August 10, 1981. Applicant: ECKNOR, INC., 7 Oakcrest Dr., Huntington Station, NY 11746. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting (1) *food and related products*, and (2) *limestone and fertilizer and their related products*, between points in the U.S. under continuing contract(s) with Dext Co., of Secaucus, NJ, and Agway, Inc., of DeWitt, NY.

MC 95876 (Sub-405), filed August 10, 1981. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., North, St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in or used by manufacturers of (1) pollution control equipment, (2) energy producing, reclamation, and mining equipment, and (3) self-propelled vehicles and self-propelled machinery, between points in the U.S., under continuing contract(s) with Envirotech Corporation, of Menlo Park, CA.

MC 138176 (Sub-10), filed August 10, 1981. Applicant: RENTZ FARM SUPPLY, INC., Rt. 1, Brinson, GA 31725. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326, (404) 237–6472. Transporting *fertilizer and fertilizer materials*, between points in Barbour County, AL, on the one hand, and, on the other, points in NC.

MC 143776 (Sub-30), filed August 10, 1981. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave. SE., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting (1) *metal products*, and (2) *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Knape & Vogt Manufacturing Company, of Grand Rapids, MI.

MC 144416 (Sub-9), filed August 10, 1981. Applicant: C. F. McGRAW, INC., P.O. Box 498, Garden City, KS 67846. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006, (202) 331–1174. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in KS, OK, TX, MO, NE, CO, UT, and NM, on the one hand, and, on the other points in the U.S.

MC 147076 (Sub-4), filed August 10, 1981. Applicant: COMMERCIAL ZONE CARTAGE, INC., 9940 Cincinnati Dayton Rd., West Chester, OH 45069. Representative: James M. Durham (same address as applicant), (513) 777–4545. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Levi Strauss, of Florence, KY.

MC 147916 (Sub-3), filed August 10, 1981. Applicant: GAMPAC EXPRESS, INC., 4103 Second Ave. South, Seattle, WA 98134. Representative: Richard J. Howard, 3201 Bank of California Center, Seattle, WA 98124, (206) 464–4224. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Amsoil, Inc., of Superior, WI.

MC 150765 (Sub-3), filed August 10, 1981. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 206, 30700 Dyer St., Union City, CA 94587. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *paper and related products*, between points in Linn county, OR, and King and Yakima Counties, WA, on the one hand, and, on the other, points in CA.

MC 155636, filed August 10, 1981. Applicant: EURO TRUCKING, 225 S. Scioto St., Circleville, OH 43113. Representative: Robert Norpoth (same address as applicant), (614) 477–1050. Transporting *such commodities* as are dealt in by agricultural feed business houses, between points in the U.S., under continuing contract(s) with Ralston Purina Company, of Circleville, OH.

MC 155796 (Sub-1), filed August 10, 1981. Applicant: TOM HASTINGS, d.b.a. TRANSPORTATION SPECIALISTS, 440 Commercial Federal Tower, Omaha, NE 68124. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *grain products and related products*, between points in the U.S., under continuing contract(s) with Con Agra, Inc., of Omaha, NE.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25189 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 151]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: August 25, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any

applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,
Secretary.

MC 14045 (Sub-5)X, filed July 27, 1981, previously published in the **Federal Register** of August 18, 1981, republished as follows: Applicant: LOS ANGELES-YUMA FREIGHT LINES, INC., P.O. Box 4849, Kofa Station, Yuma, AZ 85364. Representative: Harold G. Hernly, Jr., 110 South Columbus Street, P.O. Box 1281, Alexandria, VA 22313. Applicant seeks to remove restrictions in its lead and in the operating rights acquired in No. MC-F-14601 to (1) broaden its commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) broaden the irregular-route authority from "between Yuma, AZ, on the one hand, and, on the other, points in Arizona between 30 miles of Yuma," to "between points in Yuma County, AZ" in the lead; (3) authorize service to all intermediate points on regular route authority in MC-F-14601; and (4) expand off-route point authority from "points within 25 miles of Hyder and Roll, AZ," to "points in Yuma and Maricopa Counties, AZ" in MC-F-14601, and expand the off-route points of Calexico, CA, and points in the Los Angeles and Los Angeles Harbor, CA commercial zones to "points in Imperial, Los Angeles, Orange and Ventura Counties and the Los Angeles Harbor Commercial Zone" in the lead.

MC 93147 (Sub-29)X, filed August 11, 1981. Applicant: DELTA TRANSPORT CORPORATION, 840 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Applicant seeks to remove restrictions in its Sub-Nos. 12F, 13F, 16F, and 19F certificates to: (1) broaden the commodity descriptions (a) in Sub-No. 12F from (1) vending machines and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) to "machinery and materials, equipment, and supplies used in the manufacture and distribution of such commodities"; (b) in Sub-No. 16F, from such commodities as are dealt in or used by manufacturers of glass and glass products to "such commodities as are dealt in or used by manufacturers of clay, concrete, glass, and stone products"; and (c) in Sub-No. 19F, from (1) expandable polystrene and (2) materials, equipment, and supplies used in the manufacture, sale, and distribution of expandable polystrene to "rubber and plastic products and materials, equipment, and supplies used in the manufacture, sale, and distribution of rubber and plastic products"; and (3) eliminate: (a) the commodities in bulk, and in tank vehicles restrictions, in Sub-Nos. 12F, 13F, and 19F; and (b) the originating at and destined to restrictions, in Sub-Nos. 13F and 19F.

MC 96324 (Sub-46)X, filed August 5, 1981. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Mel P. Booker, Jr., P.O. Box 1281, Alexandria, VA 22313. Applicant seeks to remove restrictions in its Sub-No. 42F certificate to broaden the commodity description from can ends, metal container, and equipment, materials and supplies used in the manufacture of can ends and metal containers to "containers and closures for containers".

MC 116763 (Sub-676)X, filed August 14, 1981. Applicant: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, OH 45380. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Applicant seeks to remove restrictions in its Sub-No. 649 certificate to broaden the commodity description from general commodities with exceptions to "general commodities (except classes A and B explosives)".

MC 119211 (Sub-14)X, filed August 12, 1981. Applicant: MAU TRUCKING, INC., 90 Jacob's Addition, Ida Grove, IA 51445. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-No. 13F permit to broaden the territorial description to authorize the transportation of specified commodities "between points in the U.S.," under continuing contract(s) with a named shipper.

MC 119619 (Sub-152)X, filed August 10, 1981. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Arthur J. Piken, 95-25 Queens Boulevard, Rego Park, NY 11374. Applicant seeks to remove restrictions in its Sub-Nos. 107 and 126 certificates to (1) broaden the commodity description from foodstuffs in Sub-No. 107 to "food and related products" and from bananas and agricultural commodities exempt from regulation under Section 203(b)(6) of the Interstate Commerce Act when transported in mixed loads with bananas in Sub-No. 126 to "farm products and food and related products" (2) remove restriction limiting service to vehicles equipped with mechanical refrigeration in Sub-No. 107, (3) change city to county-wide authority from Pomfret Center, CT, to Windham County, CT, in Sub-No. 107, (4) change one-way to radial authority in both subs and (5) remove the originating at and destined to restriction in Sub-No. 107.

MC 119717 (Sub-1)X, filed August 12, 1981. Applicant: ADVANCE FREIGHT LINES, INC., 1945 W. 112th St., Cleveland, OH 44102. Representative: David A. Turano, 100 E. Broad, Columbus, OH 43215. Applicant seeks to remove restrictions in Certificate MC-119717 to (1) broaden the commodity description to (a) "metal products" from aluminum ingots, slabs, zinc slabs, aluminum shot, granular aluminum and zinc ingots; (b) "waste and scrap materials" from aluminum and zinc scrap; (2) replace specific point authority with county-wide authority to Cuyahoga County, OH from Maple Heights, OH; (3) replace one-way with radial authority.

MC 124004 (Sub-69)X, filed August 3, 1981. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Spark, NJ 07871. Representative: Richard W. Dahn (same as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 13, 19F, 39, 40, 45F, 46F, 51 and 59F certificates to (1) broaden the commodity descriptions to "chemicals and related products" from fertilizer and fertilizer ingredients, and pesticides and insecticides, in Sub-No. 13; from dry fertilizer and fertilizer ingredients, in Sub-No. 46F; from Soda ash, in Sub-Nos. 39 and 40; and from cleaning compounds, liquid soap, bleach, ammonia, fabric softener, laundry and dish detergent and soap bubbles, in Sub-No. 59F; to "metal products and scrap materials not identified by industry

producing" from scrap brick and scrap metals, in Sub-No. 19, to "building materials" from insulating products, in Sub-No. 51 and to "commodities in bulk" from animal and poultry feed and animal and poultry feed ingredients and agricultural commodities otherwise exempt from regulations under section 203(b)(6) of the act, in Sub-No. 45F, (2) remove the "in bulk" and/or "in dump vehicles" restrictions, in Sub-Nos. 13, 39, 40, and 46F, (3) replace one-way authority with radial authority, in Sub-Nos. 13, 39, 40, 46F, 59F and 51F (4) remove the restrictions against the transportation of salt and salt products, lime and limestone products, feed ingredients, and liquid commodities in bulk, in tank vehicles, in Sub-No. 45F, and (5) broaden the territorial description by substituting county-wide authority for city-wide authority as follows: Onondaga County, NY (from Salvoy, NY), in Sub-Nos. 39 and 40; Orange County, NY (for Warwick, NY), in Sub-No. 13; Somerset County, MD (for Princess Anne, MD), in Sub-No. 51F, Hudson County, NJ (for Kearny, NJ), in Sub-No. 19 and Bergen County, NJ (for Carlstadt, NJ), in Sub-No. 59F.

MC 134838 (Sub-31)X, filed June 11, 1981, previously noticed in the **Federal Register** of July 20, 1981, republished as corrected this issue. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., 2561 Plant Atkinson Road, Smyrna, GA 30080. Representative: Walter S. Wallace (same as address). Applicant seeks to remove restrictions in its lead and Sub-Nos. 5, 6F, 10G, 11, 12, 15, 17, 18, 20F, 21F, 24F, 25F, 26F, and 27F certificates to: (1) broaden the commodity description in its lead certificate and Sub-Nos. 15, and 18, from wooden poles, crossarms, ties, lumber, floor and paving blocks and posts to "lumber and wood products and clay, concrete, glass or stone products"; (2) in Sub-No. 6, broaden the commodity descriptions in paragraphs (1), (2), (3), (6), (8), (10), (11), and (12) from poles, post, and pilings to "lumber and wood products, clay, concrete, glass or stone products, and metal products"; in paragraphs (4), (5), (7), and (9), from lumber and wooden poles, to "lumber and wood products"; (8) in Sub-Nos. 10G and 24, broaden the commodity descriptions from lumber and lumber products to "lumber and wood products"; (4) broaden the commodity descriptions in Sub-No. 11 from machinery, machinery parts, road construction machinery and contractors equipment; in Sub-No. 12, from jigs, tools, equipment, material and supplies used in the jobsite erection, installation or construction of prestressed, precast and reinforced concrete products, products made partially of precast, prestressed or reinforced concrete, concrete cooling towers and concrete cooling tower sections; in Sub-No. 20F, from material handling equipment and materials processing equipment and materials and equipment used in the manufacture of such commodities; in Sub-No. 25F; from pile drivers and pile extractors and parts, supplies, materials, and equipment used in the manufacture, installation, dismantling and distribution of steel pipe, pipe fittings, beams, piling, rails, railway track accessories, pile drivers and pile extractors; and in Sub-No. 27F, from forestry, agriculture, and mining machinery and parts, attachments, components and accessories for forestry, agricultural and mining machinery and materials, equipment and supplies used in the manufacture and distribution of such commodities, to in each of the above numbered subs "machinery and equipment and parts, implements, attachments and accessories therefor, and materials, supplies and equipment used in the manufacture, distribution or sale thereof"; (5) broaden the commodity description in Sub-Nos. 11, 17, and 21, from iron and steel articles to "metal products"; (6) broaden the commodity description in Sub-No. 25F from steel pipe, pipe fittings, beams, piling, rails and railway track accessories to "metal products"; (7) broaden the commodity desciption in Sub-No. 12 from prestressed, precast and reinforced concrete products and products partially made of precast, prestressed or reinforced concrete, concrete cooling towers and concrete cooling tower sections to "clay, concrete, glass or stone products"; (8) expand specific point authority to county-wide authority as follows: in the lead, Atlanta, GA to Cobb, DeKalb, Fulton, and Clayton Counties, GA; Augusta, GA to Richmond County, GA; Macon, GA to Bibb County, GA; Chattanooga to Hamilton County, GA; in Sub-No. 5, Atlanta, GA to Fulton, Cobb, DeKalb, and Clayton Counties, GA; in Sub-No. 6, Florence, Athens and Huntsville, AL, to Lauderdale, Limestone and Madison Counties, AL; Valdosta, Macon, Camilla, East Point and Brunswick, GA, to Lowndes, Bibb, Mithcell, Fulton and Glynn Counties, GA; Florence, SC to Florence County, SC; in Sub-No. 10G, Florence to Lauderdale County, AL, Athens to Limestone County, AL, Huntsville to Madison County, AL; in Sub-No. 12, Macon to Bibb County, GA, Stockbridge to Henry County, GA; in Sub-No. 17, Savannah to Chatham County, GA; in Sub-No. 20F, Loganville, to Gwinnett and Walton Counties, GA; in Sub-No. 21F, Greenville to Greenville County, SC; in Sub-No. 25F, Parkersburg and Washington to Wood County, WV; in Sub-No. 26, Hampton to Henry County, GA; in Sub-No. 27F, Cedartown to Polk County, GA; (9) broaden existing one-way authority to radial authority in each of the above-numbered certificates; (10) remove facilities limitations in Sub-Nos. 12, 20F, 21F, 25F, 26F and 27F; (11) remove equipment restrictions such as in dump or tank vehicles wherever they appear in each certificate; (12) remove the restriction "except commodities in bulk" and other specified commodities such as "except plywood and veneer" wherever they appear in each certificate. The purpose of this republication is to correct both the territorial and commodity descriptions.

MC 135121 (Sub-7)X, filed August 7, 1981. Applicant: DODSWORTH, INCORPORATED, 928 W. 19th Street, Eire, PA 16512. Representative: Thomas N. Willess, 1000 Sixteenth Street, NW, Suite 502, Solar Building, Washington, D.C. 20036. Applicant seeks to remove restrictions in its Sub-No. 4F certificate to (1) broaden the commodity description from general commodities with exceptions to general commodities (except Class A and B explosives) (2) remove restriction to individual articles not exceeding 100 pounds in weight, moving as shipments not exceeding 500 pounds in weight from one consignor to one consignee in a single day of bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8), formerly Section 402(a)(5), of the Interstate Commerce Act and (3) remove the restriction prohibiting the transportation of traffic having a prior or subsequent movement by air.

MC 141285 (Sub-2), filed August 14, 1981. Applicant: NORFOLK BEVERAGE COMPANY, INC., 206 East Northwestern, P.O. Box 226, Norfolk, NE 68701. Representative: Donald L. Stern, 7171 Mercy Road, Suite 610, Omaha, NE 68106. Applicant seeks to remove restrictions in its lead permit to (1) broaden the commodity description from surgical needles and syringes, and blood collection tubes, to "such commodities as are dealt in or used by manufacturers and distributors of medical supplies"; and (2) broaden the territorial description to between all points in the U.S., under continuing contract(s) with a named shipper.

MC 146442 (Sub-1)X, filed July 30, 1981, previously noticed in the **Federal Register** of August 20, 981, republished as follows: Applicant: CLEARFIELD

TRANSPORTATION CO., INC., P.O. Box 313, Clinton, MO 64735. Representative: Mark J. Andrews, Suite 1100, 1660 L Street, NW, Washington, DC 20036. Applicant seeks to remove restrictions in its lead permit to (1) broaden commodity descriptions to: "(a) food and related products and materials, equipment, and supplies used in the manufacture, development, packaging, and distribution of food and related products and (b) cleaning compounds" from cheese, cheese products, pasteurized process cheese products substitutes, and ingredients and additives, salt, corn meal, mush, oleomargarine, salad dressing, fish bait, butter, and exempt commodities, and materials, equipment and supplies used in the manufacture, development, packaging and distribution of cheese, cheese products, and pasteurized process cheese product substitutes and cleaning compounds; and (2) broaden the territorial description to authorize service between points in the U.S., under continuing contract(s) with the Clearfield Cheese Company, Inc. The purpose of this republication is to correct omissions in the commodity descriptions in part (1).

MC 149040 (Sub-3)X, filed August 17, 1981. Applicant: BANNER TRANSFER COMPANY, INC., 1403 Rowan Street, Louisville, KY 40203. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Applicant seeks to remove restrictions in its Sub-No. 2F permit to (1) delete the exception of commodities in bulk; and (2) broaden the territorial description to between all points in the U.S., under continuing contract(s) with a named shipper.

[FR Doc. 81-25179 Filed 8-27-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 150]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: August 24, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have be modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 110325 (Sub-177)X, filed June 25, 1981, previously noticed in the **Federal Register** of July 24, 1984, republished as corrected this issue. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 74, 109F, 129F, 131F, 132F, 133F, 135F, 136F, 137F, 138F, 139F, 140F, 141F, 142F, 143F, 144F, 145F, 147F, 149F, 150F, 151F, 155F, 156F, 157F, 160F, and 161F certificates, to (1) delete all exceptions in its general commodities authority "except classes A and B explosives." in each certificate; (2) broaden regular-route territorial descriptions to authorize service at all intermediate points; (3) remove restrictions against (a) either picking up or delivery of traffic at certain points (Sub-No. 74, sheet 1), (b) any service between Chattanooga, TN and Memphis, TN (Sub-No. 74, sheet 3), (c) service within the commercial zones of any of the regular-route points authorized except at those points within TN (Sub-No. 74, sheet 7), and remove restrictions which specify service for purposes of joinder only (Sub-No. 149); (4) remove facilities limitations and broaden the off-route points to county-wide authority as follows: Sub-No. 74, (sheet 2) Warren County, TN (plantsite near McMinnville, TN) and (sheet 4) Rutherford County, TN (facilities in Rutherford County, near Nashville, TN); Sub-No. 109, Grimes County, TX (plantsite near Carlos, TX); Sub-No. 131, Columbia and Union Counties, PA (Millville and New Berlin, PA); Sub-No. 132, Sandusky and Seneca Counties, OH (facilities at Green Springs, OH); Sub-No. 133, Cumberland County, PA (facilities at Mount Holly Springs, PA); Sub-No. 135, Van Buren County, MI (facilities at Decatur, MI); Sub-No. 138, Mayes and Wagoner Counties, OK (Wagoner and Pryor, OK); Sub-No. 139, Pierce County, WA (those points in Pierce County, WA on and west of a specific highway); Sub-No. 143, Valencia County, NM (Grants and Milan, NM) Sub-No. 144, El Paso County, CO (Colorado Springs, CO); Sub-No. 147, Wake County, NC (facilities near Wendell, NC); Sub-No. 150, Milam County, TX (facilities near Cameron, TX); Sub-No. 151, Bradley County, TN (facilities near Charleston, TN); Sub-No. 155, Atchison County, KS (Atchison, KS), Grundy County, IL (Coal City, IL), DuPage, Kane, Winnebago, Peoria and Tazewell Counties, IL (Aurora, Rockford, and Pekin, IL), and Nemaha, Brown and Washington Counties, KS (Sabetha and Linn, KS); Sub-No. 161, Cowlitz County, WA (Longview, WA); and Sub-No. 74 Bledsoe, Sequachie and Van Buren Counties, TN (Fall Creek Falls State Park, TN, and points within ten miles of the boundary of said Park, except Dunlap and Pikeville, TN, and points on a specific highway between Dunlap and Pikeville). This notice is republished to correct the territorial descriptions to indicate the proposed changes in Sub-No. 74 (sheet 2) and Sub-No. 109.

MC 114132 (Sub-11)X, filed July 7, 1981 and previously noticed in the **Federal Register** of July 30, 1981, republished as corrected this issue: Applicant: CHURN'S TRUCK LINES, INC., P.O. Box 188, Eastville, VA 23347. Representative: James F. Flint, 406 World Center Building, 918—16th Street, N.W., Washington, D.C. 20006. Applicant seeks to remove restrictions in its lead and Sub-Nos. 4 and 6F certificates as previously published, and in addition to broaden facility or city-wide authority to county wide in the lead: Chicago, IL to Cook, Will, DuPage, and Lake Counties, IL; Cleveland, OH to Lake, Geauga, Portage, Summit, Medina, Lorain, and Cuyahoga Counties, OH; and Jersey City, NJ to Hudson, Union, Essex, Passaic, and Bergen Counties, NJ, and Richmond, Kings, Queens, New York, and Bronx Counties, NY. The purpose of this republication is to correct inadvertent omissions in the original notice.

MC 138395 (Sub-17)X, filed August 12, 1981. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Applicant seeks

to remove restrictions in its Sub-Nos. 2, 4, 8, 12F, 13, and 14F Certificates to (1) broaden the commodity descriptions: in Sub-Nos. 2, 4, and 8 to "metal and metal products" from scrap metals; Sub-No. 13 to "lumber and wood products from lumber and "lumber and wood products and forest products" from lumber and wood products: Sub-No. 13 to "containers" from fruit and vegetable containers; (2) change one-way authority to radial authority in all certificates; (3) broaden the named plantsites and cities to county wide authority as follows: in Sub-No. 2 Wicomico County (Salisbury, MD); Camden and Burlington Counties, NJ (Camden and Burlington, NJ); in Sub-No. 4 Wicomico County (Salisbury, MD); in Sub-No. 8 Wicomico and Harford Counties, MD (Salisbury and Harve de Grace, MD); in Sub-No. 13 Wicomico County, MD (Hebron, Fruitland, and Salisbury, MD); Mercer, Burlington, and Atlantic Counties, NJ (Trenton, Burlington and Landisville, NJ); Cumberland County, NJ (Bridgeton and Rosenhayn, NJ); New Castle County, DE Wilmington, DE); Allegheny, Lackawanna and Luzerne Counties, PA (Pittsburgh, Scranton, and Wilkes-Barre, PA); Sub-No. 14F, Wicomico County, MD (plantsite at or near Salisbury, MD); and (4) remove exceptions in bulk (Sub-No. 12F) in dump vehicles (Sub-No. 8).

MC 141853 (Sub-4)X, filed August 4, 1981. Applicant: H. HOYT MCKAREM, d.b.a. C–B–C TRANSPORTATION, INC., 1415 Railroad Avenue, Greenville, MS 38701. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Applicant proposed to remove restrictions in its lead certificate to: (A) remove exceptions from general commodity authority except Classes A and B explosives; (B) remove restriction against service between points in MS located in the commercial zone of Memphis, TN.

MC 142311 (Sub-5)X, filed August 10, 1981. Applicant: QUALITY STEAKS TRANSPORTATION COMPANY, INC., 5100 Race, Denver, CO 80216. Representative: Jack B. Wolfe, 1600 Sherman, #665, Denver, CO 80203. Applicant seeks to remove restrictions from its MC 142311F (base) and Sub-No. 2F permits to (1) replace the commodity description of foodstuffs and restaurant materials, equipment and supplies with "food and related products and such commodities as are dealt in or used by restaurants"; (2) remove "except commodities in bulk"; and (3) authorize service "between points in the U.S. under continuing contract(s) with a named shipper.

MC 142664 (Sub-10)X, filed August 12, 1981. Applicant: IMPORT DEALERS SERVICE CORPORATION, 2222 East Sepulveda Boulevard, Long Beach, CA 90810. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions from its Sub-Nos. 5F, 7F and 8 certificates to: (1) broaden to "transportation equipment" from motor vehicle (except buses and trailers), in Sub-No. 5; trucks, tractors, buses and chassis therefore, in Sub-No. 7F; and motor vehicles (except trailers) in Sub-No. 8; eliminate the restriction to "truckaway service" in Sub-No. 5F; eliminate the restriction against the transportation of traffic originating at facilities in Los Angeles, CA and originating at Logan, UT, in Sub-No. 5F; broaden city authority to county authority as follows: Los Angeles, CA, to Los Angeles, Orange and Ventura Counties, CA, in Sub-Nos. 5F and 7F; broaden Oakland, CA, to Alameda, Contra Costa, Marin, San Mateo, Solano and San Francisco Counties, CA in Sub-No. 7F; from Kansas City, MO, to Platte, Clay, Jackson, and Cass Counties, MO in Sub-No. 5F; and from El Paso, TX, to El Paso County, TX, in Sub-Nos. 7F and 8.

MC 145461 (Sub-5)X, filed August 10, 1981. Applicant: TENNESSEE-TEXAS EXPRESS, INC., P.O. Box 888, Gallatin, TN 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) remove exceptions to general commodities (except classes A and B explosives); (2) authorize service at all intermediate points on its regular routes (a) between Nashville, TN, and Beaumont, TX, (b) between Houston, TX, and the junction of U.S. Hwy 259 and Interstate Hwy 30, and (c) between Beaumont, TX, and junction U.S. Hwy 259 and Interstate Hwy 30: (3) remove a restriction against the handling of traffic originating at, destined to or interlined at Nashville, TN, and its commercial zone: (4) remove a restriction against providing local service between authorized service points in TX; and (5) remove "for purpose of joinder only" on the routes described in (2) above.

[FR Doc. 81-25162 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Conoco, Inc., P.O. Box 2197, Houston, TX 77001
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Coastal Oil Company, 744 Broad Street, Newark, N.J. 07102
Conoco Coal Development Company, High Ridge Park, Stamford, CT 06904
Conoco Communications, Inc., P.O. Box 1267, Ponca City, OK 74601
Conoco Fuels, Inc., High Ridge Park, Stamford, CT 06904
Conoco Minerals, Inc., High Ridge Park, Stamford, CT 06904
Consolidation Coal Company, 1800 Washington Road, Pittsburgh, PA 15241
Continental Pipe Line Company, P.O. Box 1267, Ponca City, OK 74601
Douglas Oil Company of California, 3160 Airway Avenue, Costa Mesa, CA 92626
General Facilities, Inc., P.O. Box 2197, Houston, TX 77001
Home Fuel Oil Company, 744 Broad Street, Newark, N.J. 07102
Kayo Oil Company, 1221 East Main Street, Chattanooga, TN
Onco Oil Company, 744 Broad Street, Newark, NJ 07102
Pitt-Consol Chemical Company, 191 Doremus Avenue, Newark, N.J. 07105
Western Oil and Fuel Company, 1400 Lilac Drive, South Minneapolis, MN 55416

Continental Carbon Company; 10500 Richmond; P.O. Box 42817, Houston, TX 77042, Fairmont Supply Company; P.O. Box 952; Fairmont, W. Va. 26554

1. Parent corporation and address of principal office: Georgia-Pacific Corporation, 900 S.W. Fifth Avenue, Portland, Oregon 97204.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Alpha Plastics Corporation
(b) Ashley, Drew & Northern Railway Company
(c) California Western Railroad
(d) Exchange Oil & Gas Corporation
(e) Fordyce and Princeton R.R. Co.
(f) Four Hundred Health Club, Inc.
(g) Georgia-Pacific Export, Inc.
(h) Georgia-Pacific International Corporation
(i) Georgia-Pacific Investment Company
(j) Georgia-Pacific Leasing Corporation
(k) Georgia Steamship Company, Inc.
(l) Holly Hill Lumber Company
(m) Hudson American Corporation
(n) Hudson Pulp & Paper Corp.
(o) Montana Pacific International
(p) National Management, Inc.
(q) O.P.M. Co., Inc.
(r) Rex Timber Inc.
(s) St. Croix Pulpwood Company
(t) St. Croix Water Power Company

Note—Addreses for the above named subsidiaries will be the same as the parent company.

1. Parent corporation and address of principal office: National Gypsum Company, 4100 First International Building, Dallas, TX 75270, Telephone: (214) 653–8511.
2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:
   (i) American Olean Tile Company, Inc., a New York corporation
   (ii) Binswanger Glass Co., a Virginia corporation
   (iii) Biscayne Decorative Products, Inc., a Delaware corporation

I. Parent corporation and address of principal office: Nibble With Gibble's, Inc., a Pennsylvania corporation, 6647 Molly Pitcher Highway, South, Chambersburg, PA 17201.

II. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Subsidiary and State(s) of Incorporation

a. Munch King, Inc., Georgia
b. Belinda Trucking, Inc., Pennsylvania

1. Parent Corporation and address of principal office: Super Valu Stores, Inc., P.O. Box 990, Minneapolis, MN 55440.
2. Subsidiaries:
   J. M. Jones Co., Champaign, IL
   Lewis Grocer Co., Indianola, MS
   Preferred Products, Inc., Chaska, MN
   Shopko Stores, Inc., Green Bay, WI
   County Seat, Brooklyn Park, MN
   County Seat, Dallas, TX
   SVS Trucking, Inc., Eden Prairie, MN
3. Divisions:
   Super Valu Stores, Inc., Plainfield, IL
   Super Valu Stores, Inc., Anniston, AL
   Super Valu Stores, Inc., Hopkins, MN
   Super Valu Stores, Inc., Fargo, ND
   Super Valu Stores, Inc., Bismarck, ND
   Super Valu Stores, Inc., Green Bay, WI
   Super Valu Stores, Inc., Des Moines, IA
   Food Marketing Corp., Ft. Wayne, IN
   Charley Brothers, Greensburg, PA
   Ohio Valley Division, Xenia, OH
   Ryan's, Billings, MT
   Ryan's, Great Falls, MT

1. Parent corporation and address of principal office: Transway International Corporation, 747 Third Avenue, New York, NY 10017.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:
   A. California Western Freight Association, 3334 San Fernando Road, Los Angeles, CA 90054;
   B. Coordinated Caribbean Transport, 1533 Sunset Drive, Coral Gables, FL 33143;
   C. Custom Cartage Company, 351 Tenth Avenue, New York, N.Y. 10001;
   D. Custom Equipment Rentals, Inc., 351 Tenth Avenue, New York, N.Y. 10001;
   E. Freeport Cruise Lines Panama, Inc., 747 Third Avenue, New York, N.Y. 10017.
   F. Great Dane Trailors, Inc., P.O. Box 67 E. Lathrop Ave., Savannah, GA 31402;
   F.1 Great Dane Birmingham, P.O. Box 5070, Birmingham, Alabama 35214;
   F.2 Great Dane Charlotte, P.O. Box 33666, Charlotte, N.C. 28233;
   F.3 Great Dane Columbus, P.O. Box 9, Hilliard, Ohio 43026;
   F.4 Great Dane Trailers Indiana, Inc., P.O. Box 350, Brazil, Indiana 47834;
   F.5 Great Dane Indianapolis, P.O. Box 41316, Indianapolis, Ind. 46241;
   F.6 Great Dane Jacksonville, P.O. Box 6732, Jacksonville, FL 32205;
   F.7 Great Dane Knoxville, P.O. Box 22220, Knoxville, TN 37922;
   F.8 Great Dane Memphis, P.O. Box 94446, Memphis, TN 38109;
   F.9 Great Dane Miami, P.O. Box 914 Tamiami Sta., Miami, FL 33122;
   F.10 Great Dane Nashville, P.O. Box 100432, Nashville, TN 37210;
   F.11 Great Dane Orlando, P.O. Box 31, Orlando, FL 32802;
   F.12 Great Dane Richmond, P.O. Box 34129, Richmond, VA 23234;
   F.13 Great Dane Tampa, P.O. Box 11146, Tampa, FL 33680;
   F.14 Great Dane Springdale, P.O. Box 227, Springdale, AR 72764;
   F.15 Great Dane Tennessee, P.O. Box 13066, Memphis, Tennessee 38113;
   F.16 Trailer Rental Company, 660 University Ave, S.W., Atlanta, GA 30310;
   G. Lasham Cartage Company, 3636 S. Western Ave., Chicago, IL 60609;
   H. Merchant Shippers, 1061 S. Western Ave., Chicago, IL 60608;
   I. Odecca Terminal Company, 747 Third Avenue, New York, N.Y. 10017;
   J. Pacific Forwarding Company, 1601 S. Western Ave., Chicago, Ill. 60608;
   K. Robertson Drayage Co., Inc., 700 16th Street, San Francisco, CA 94107;
   L. Stor Dor Freight System, Inc., 1601 S. Western Ave., Chicago, IL 60608;
   M. Transport Cartage & Distributing Co., 1039 Richmond Street, Los Angeles, CA 90033;
   N. Tropigas International Corp., P.O. Box 341218, Coral Gables, FL 33134;
   O. Tropigas, SA, P.O. Box 341218, Coral Gables, FL 33134;
   P. Tropigas Inc. of Florida, P.O. Box 440249, Miami, FL 33144;
   Q. Tropigas Inc. of North Carolina, P.O Box 156, Pollicksville, N.C. 28573;
   R. Universal Carloading & Distributing Co., Inc., 345 Hudson Street, New York, N.Y. 10014;
   S. Universal Transcontinental Corporation, 325 Spring Street, New York, N.Y. 10013;
   T. Wescartage Company, Inc., 960 East Third Street, Los Angeles, CA 90013;
   U. Western Carloading Co., Inc., 960 East Third Street, Los Angeles, CA 90013;
   V. Western Freight Handlers, Inc., 650 Tenth Avenue, New York, N.Y. 10001;
   W. Western Terminal Company, 1601 S. Western Avenue, Chicago, IL 60608.

1. Parent corporation and address of principal office: Walgreen Co., 200 Wilmot Road, Deerfield, Illinois.
2. Wholly-owned Subsidiaries which will participate in the operations, and addresses of respective principal offices.
   a. Walgreen Oshkosh, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   b. Rennebohm Drug Stores, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   c. Walgreen Drug, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   d. Walgreen Texas Co., 200 Wilmot Road, Deerfield, IL 60015;
   e. Walgreen Louisiana Co., Inc., 200 Wilmot Road, Deerfield, IL 60015;
   f. Walgreen Racine, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   g. Bond Drug Company of Clinton, 200 Wilmot Road, Deerfield, IL 60015;
   h. Bond Drug Company of Illinois, 200 Wilmot Road, Deerfield, IL 60015;
   i. Walgreen Arizona Drug Co., 200 Wilmot Road, Deerfield, IL 60015;
   j. Walgreen Milwaukee, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   k. Walgreen Southgate Corp., 200 Wilmot Road, Deerfield, IL 60015;
   l. Walgreen Woodmar, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   m. Walgreen Capitol Court, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   n. Walgreen South Dakota, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   o. Walgreen Pentagon Co., 200 Wilmot Road, Deerfield, IL 60015;
   p. Walgreen of Puerto Rico, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   q. Walgreen of San Patricia, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   r. Walgreen Fremont Co., 200 Wilmot Road, Deerfield, IL 60015;
   s Walgreen Hastings Co., 200 Wilmot Road, Deerfield, IL 60015;
   t. Walgreen Lincoln Co., 200 Wilmot Road, Deerfield, IL 60015;
   u. Robin Hood Restaurants of Illinois, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   v. Walgreen Cudahy, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   w. Walgreen New Berlin, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   x. Walgreen West Bend, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   y. Walgreen Altoona Co., 200 Wilmot Road, Deerfield, IL 60015;
   z. Globe Stores, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   a'. Flint Realty Co., 200 Wilmot Road, Deerfield, IL 60015;
   b'. Chambly Creations, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   c'. Fountain Products Corporation, 200 Wilmot Road, Deerfield, IL 60015;
   d'. Globe Discount City of Arizona, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   e'. Globe Discount City of Louisiana, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   f'. Globe Discount City of New Mexico, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   g'. Grenada Advertising Agency, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   h'. Home Drug Company, 200 Wilmot Road, Deerfield, IL 60015;
   i'. Intercom Pharmacy Systems, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   j'. International Travel Service, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   k'. Lord Jim, Inc., 200 Wilmot Road, Deerfield, IL 60015;
   l'. Luxury Mint Corporation, 200 Wilmot Road, Deerfield, IL 60015;
   m'. Memphis Warehouse Co., 200 Wilmot Road, Deerfield, IL 60015;
   n'. Nicollet & Ninth Corporation, 200 Wilmot Road, Deerfield, IL 60015;

o'. Nutrition Research Laboratories, Inc., 200 Wilmot Road, Deerfield, IL 60015;
p'. RAO Corporation, 200 Wilmot Road, Deerfield, IL 60015;
q'. Sanborns Mexico (Texas), 200 Wilmot Road, Deerfield, IL 60015;
r'. Wag's Restaurants of Illinois, Inc., 200 Wilmot Road, Deerfield, IL 60015;
s'. Walgreen Canada Limited, 200 Wilmot Road, Deerfield, IL 60015;
t'. Walgreen Drug (Ontario) Limited, 200 Wilmot Road, Deerfield, IL 60015;
u'. Walgreen Fond du Lac, Inc., 200 Wilmot Road, Deerfield, IL 60015;
v'. Walgreen Laboratories, Inc., 200 Wilmot Road, Deerfield, IL 60015;
w'. Walgreen Oconomowoc, Inc., 200 Wilmot Road, Deerfield, IL 60015;
x'. Walgreen of Hato Rey, Inc., 200 Wilmot Road, Deerfield, IL 60015;
y'. Walgreen Eastern Co., Inc., 200 Wilmot Road, Deerfield, IL 60015;
z'. Walgreen Properties, Inc., 200 Wilmot Road, Deerfield, IL 60015;
a''. Walgreen Waukesha, Inc., 200 Wilmot Road, Deerfield, IL 60015;
b''. W O C Optical, Inc., 200 Wilmot Road, Deerfield, IL 60015;
c''. Worthmore Cosmetic and Vitamin Co., 200 Wilmot Road, Deerfield, IL 60015;
d''. Wilmot Trading Company, Ltd., c/o Alastair Loudon Barclay Bank Bldg., George Town, Grand Cayman, Cayman Islands, United States Office at 102 Wilmot Rd., Suite 440, Deerfield, IL 60015.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25187 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations—Correction

In the **Federal Register** issue of August 14, 1981 (46 FR 41220), the Parent Corporation of Walgreen Co., 200 Wilmont Rd., Deerfield, IL, was published as having only one subsidiary—Wilmot Trading Company, Ltd. The recent listing by Walgreen Co. was intended as a supplemental CIH Notice to its previous filing published on June 5, 1981 (46 FR 30203). Every updated notice of intent to engage in compensated intercorporate hauling operations must be treated as a new separate filing and completely list all the subsidiaries of the parent corporation.

To correct the error, Walgreen Co. and all its subsidiaries as of August 14, 1981, have been published in their entirety, elsewhere in this issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25186 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 434]

Motor Carriers; Permanent Authority; Decision-Notice; Republications of Grants of Operating Rights; Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 143624, Sub-87 (Republication), filed April 7, 1980, published in the **Federal Register** issue of July 10, 1980. Applicant: WARD TRANSPORT, INC., P.O. Box 753, Pueblo, CO 81002. Representative: Leslie R. Kehl 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. A Decision of the Commission, Division 1, decided July 24, 1981, and served August 7, 1981, finds that the performance by applicant of the service described herein will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *petroleum, natural gas and their products, chemicals and related products, and coal and coal products,* between points in AZ, CO, ID, KS, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY; that the applicant is fit, willing and able to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect a broadening of the original grant published in the **Federal Register.**

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25190 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-66F)

Southern Pacific Transportation Company—Abandonment—Between Oasis and Soumethun, TX; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Southern Pacific Transportation Company to abandon a portion of its line of railroad known as the Soumethun Branch, extending from railroad milepost 269.813 near Oasis to milepost 269.156 near Soumethun, the end of the branch, a distance of 0.657 miles in Dallas County, TX, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25188 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: August 25, 1981.

In our recent decision, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.9-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 6.7-percent surcharge for the bus carriers, or the 2.0-percent surcharge for United Parcel Service.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m., August 28, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

August 24, 1981.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

August 24, 1981 ..... 130.7¢

	Transportation performed by—			
	Owner operator [1]	Other [2]	Bus carrier	UPS
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.9	3.1	6.7	[3] 2.8
Percent surcharge allowed	16.0	3.1	6.7	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-25247 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OP3-243]

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 118224 (Sub-7) (republication), filed January 13, 1981, published in the **Federal Register** issue of February 10, 1981, republished March 23, 1981. Applicant: STANDARD FRUIT & VEGETABLE CO., INC., 2111 Taylor Street, Dallas, TX 75201. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided August 6, 1981, and served August 12, 1981, finds that the performance by the applicant of the service will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) *general commodities* (except classes A and B explosives), between points in Texas, on the one hand, and, on the other, points in TX, LA, MS, AR, TN, OK, AL, MO, NM, AZ, and CA, (2) *foodstuffs*, between points in TX, LA, MS, AR, TN, OK, AL, MO, NM, AZ, and CA, and (3) *such commodities*, as are dealt in or used by manufacturers or distributors of floor coverings, between points in AZ, LA, TX, OK, AR, and MS; that the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25248 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-51F)]

Seaboard Coast Line Railroad—Abandonment—Between Bishopville and Ashwood, in Lee County, S.C.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that on August 25, 1981, the Commission issued a certificate authorizing Seaboard Coast Line Railroad to abandon its rail line between Bishopville (milepost 331.17) and Ashwood (milepost 337.35) in Lee County, SC, a total distance of 6.18 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or (b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer in made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will became effective. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the effectiveness of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as

amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25246 Filed 8-27-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Certifications Regarding the States of Alabama and Nevada Under the Federal Unemployment Tax Act

The Secretary of Labor has certified to the Secretary of the Treasury the States of Alabama and Nevada and their unemployment compensation laws under Sections 3304 and 3303 of the Federal Unemployment Tax Act, for the taxable year 1979. The certifications were made in a letter of August 6, 1981 to the Secretary of the Treasury, which is printed below.

Albert Angrisani,

Assistant Secretary of Labor.

DEPARTMENT OF LABOR

SECRETARY OF LABOR

WASHINGTON, D.C.

Hon. Donald T. Regan,
Secretary of the Treasury, Washington, D.C.

August 6, 1981.

Dear Mr. Secretary: Former Secretary of Labor, Ray Marshall, transmitted to former Secretary of the Treasury, G. William Miller, on October 31, 1979, the certifications on that date of certain States in accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) and the certifications of certain State unemployment compensation laws in accordance with the provisions of Section 3303(b)(1) of the Code (26 U.S.C. 3303(b)(1)).

The States of Alabama and Nevada and their laws were omitted from the two certifications because of former Secretary Marshall's findings that the States' laws did not contain each of the provisions required for State unemployment compensation laws by Section 3304(a) of the Code (26 U.S.C. 3304(a)), and that the States had failed to comply substantialy with such provisions. There was an explanation that the omissions did not, however, constitute a withholding of the certifications, at that time, because of the stay on such action pursuant to Section 3310(d) of the Code (26 U.S.C. 3310(d)). There was to be a further notification to the Secretrary of the Treasury when a final decision was made with respect to the 1979 certifications.

The States of Alabama and Nevada filed petitions for review of former Secretary Marshall's findings, pursuant to Section 3310(a) of the Code (26 U.S.C. 3310(a)), with the U.S. Court of Appeals for the Fifth Circuit which set aside Secretary Marshall's decision on September 8, 1980. The U.S. Supreme Court declined further review on June 1, 1981, and the decision of the U.S. Court of Appeals became the final decision.

In accordance with the decision of the U.S. Court of Appeals for the Fifth Circuit, I hereby certify to the Secretary of the Treasury the States of Alabama and Nevada for the 12-month period ending on October 31, 1979, in accordance with the provisions of Section 3304(c) of the Code and the States' unemployment compensation laws for the 12-month period ending on October 31, 1979, in accordance with the provisions of Section 3303(b)(1) of the Code. The certifications shall be deemed to be effective as of October 31, 1979.

Sincerely,

Raymond J. Donovan

[FR Doc. 81-25271 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Order Terminating Proceedings; State of California Employment Development Department, et al.

The following Order of the Secretary of Labor, issued on August 19, 1981, pursuant to Section 3304(c), terminates proceedings brought under Section 3304(c) of the Code as to the California Employment Development Department and the employment security agencies of seven other States. The Order is being published in the **Federal Register** so as to inform the public of the decision of the Secretary having a bearing upon the tax credits against the federal unemployment tax available to taxpayers under the Federal Unemployment Tax Act, 26 U.S.C. 3301–3311.

Signed at Washington, D.C. on August 19, 1981.

Albert Angrisani,

Assistant Secretary for Employment and Training.

In the matters of State of California Employment Development Department (81–CSCP–2); State of Michigan Employment Security Commission (81–CSCP–3); State of Ohio Bureau of Employment Services (81–CSCP–5); State of Oregon Employment Division (81–CSCP–6); State of Tennessee Department of Employment Security (81–CSCP–7); State of Texas Employment Commission (81–CSCP–8); State of Washington Employment Security Department (81–CSCP–9); State of Wisconsin Department of Industry, Labor, and Human Relations (81–CSCP–10); Order Terminating Proceedings.

On November 12, 1980 an order was issued staying the proceedings which the Department had instituted under Section 3304(c) of the Internal Revenue Code of 1954 to determine whether, during 1981, the unemployment compensation laws of the States of California, Michigan, Ohio, Oregon, Tennessee, Texas, Washington and Wisconsin were in conformity and substantial compliance with the requirements for certification contained in the Federal Unemployment Tax Act ("FUTA"), 26 U.S.C. 3301 *et seq.* The order stated that the Department would temporarily hold the 1981 proceedings in abeyance pending the United States Supreme Court's decision in *St. Martin Evangelical Lutheran Church and Northwestern Lutheran Academy* v. *State of South Dakota*, —— U.S. ——, —— S. Ct. ——, 68 L. Ed. 2d 612, 49 U.S.L.W. 4575 (1981).

The issue in these conformity and substantial compliance proceedings was whether FUTA requires the States, as a condition of certification, to include the employees of church-related elementary and secondary schools within the coverage of their unemployment compensation programs. The United States Supreme Court ruled on part of this issue on May 26, 1981, holding that FUTA, as amended in 1976, did not accomplish that result as to school employees actually in the employ of a church within the meaning of Section 3309(b)(1)(A) of the FUTA. *St. Martin Evangelical Lutheran Church and Northwestern Lutheran Academy* v. *State of South Dakota, supra.* Nevertheless, in footnote 12 of the opinion, the Court specifically reserved a ruling on other classes of schools.

> . . . Our holding today concerns only schools that have no legal identity separate from FUTA, a separately incorporated church school (or other organization) must satisfy the requirements of Section 3309(b)(1)(B): (1) that the organization "is operated primarily for religious purposes", and (2) that it is "operated, supervised, controlled, or principally supported by a church or convention or association of churches."
>
> Because we hold petitioners exempt under Section 3309(b)(1)(A), we leave the issue of coverage under Section 3309 (b)(1)(B) for the future.
>
> 68 L.Ed.2d at 620; 49 U.S.L.W. at 4578.

Since the law on the point reserved is not settled (see *Grace Brethren Church et al.* v. *State of California*, Civil Action No. CV 79–93 MRP, order filed April 3, 1981, appeal pending), it is anticipated that the point cannot be resolved prior to October 31, 1981. Thus, it is my intention to grant the October 1981 certifications required by FUTA on the basis of conformity and compliance apart from the Section 3309 (b)(1)(B) question reserved by the Supreme Court. Thereafter, any question concerning the scope and meaning of Section 3309 (b)(1)(B) shall be dealt with upon the

basis of final action in the *Grace Brethren* case.

Therefore, the court having put to rest the issue upon which these proceedings were initiated, I have determined that it would be inappropriate to proceed further with these cases and these proceedings are hereby ordered dismissed without prejudice to any party.

Dated this 19th day of August, 1981.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-25267 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-9360]

L & R Manufacturing Co.; Negative Determination Regarding Application for Reconsideration

By an application dated June 26, 1981, a company official 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 ultrasonic cleaning systems at the L & R manufacturing Company's Kearney, New Jersey plant. This determination was published in the **Federal Register** on June 30, 1981 (46 FR 33686).

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 the 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.

A company official claimed that a major competitor of L & R Manufacturing Company imported ultrasonic cleaning machines into the U.S. during the period of the Department's investigation.

The Department's review of the investigative case file reveals that the worker petition did not meet the increased import criterion or the "contributed importantly" test of the Trade Act of 1974. The Department's survey of major customers of L & R indicated that they did not purchase imported ultrasonic cleaning machines nor did they purchase these machines from L & R's competitor. U.S. imports of ultrasonic cleaning machines for industrial use are negligible.

The Department notes that L & R's sales increased in 1979 compared to 1978 and remained relatively unchanged in the first six months of 1980 compared to the same period in 1979. Sales are equal to production.

With respect to imports of ultrasonic cleaning machines by L & R's competitor, the Department notes from its files that this competitor introduced these imported machines into the U.S. market in 1979 when L & R's production and sales increased and discontinued these imports by June, 1980 when L & R's production and sales remained relatively unchanged from the first six months of 1979. The Department also notes that the ultrasonic machines which were imported by L & R's competitor used a water solution and were for home use whereas L & R's ultrasonic cleaning machines used a chemical solution and were generally for industrial use. Lastly, the major customers of L & R ultrasonic cleaning machines indicated that they never purchased from the competitor identified in the application for reconsideration.

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 20th day of August 1981.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-25249 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,287]

Lynchburg Foundry Co.; Amended Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

On July 7, 1981, the Department, on its own motion, reopened the instant investigation on behalf of workers and former workers producing non-automotive castings at the Radford, Virginia plant of the Lynchburg Foundry Company. The Department of Labor's Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistant in the above-mentioned invetigation was published in the **Federal Register** on April 3, 1981 (46 FR 20328).

In reopening the investigation, the Department learned that significant layoffs occurred prior to the October 1, 1979 impact date set in the Notice of Determinations for workers at the Lynchburg Foundry Company.

The intent of the certification is to cover all workers producing non-automotive castings for the Lynchburg Foundry's plant in Radford, Virginia who were affected by the decline in sales or production of non-automotive iron castings related to increased import competition. The Notice of Determinations of March 26, 1981, therefore, is amended to include a new impact date of July 8, 1979 for workers of the Lynchburg Foundry Company in Radford, Virginia.

The Notice of Determinations applicable to TA-W-11,287 is hereby amended and issued as follows:

All workers engaged in employment related to the production of non-automotive iron castings at the Radford Plant, Radford, Virginia (TA-W-11,287) of the Lynchburg Foundry Company who become totally or partially separated from employment on or after July 8, 1979 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 August 1981.

Bert Lewis,

Administrator, Unemployment Insurance Service.

[FR Doc. 81-25252 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9405]

Mayer, Rothkopf Industries, Inc.; Negative Determination Regarding Application for Reconsideration

By letter of July 6, 1981, a company official 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 at Mayer, Rothkopf Industries, Inc., Orangeburg, South Carolina. The determination was published in the **Federal Register** on June 12, 1981 (46 FR 31115).

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 the 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 company official claimed that Mayer, Rothkopf Industries (MRI) lost a significant market share of the circular knitting machines to foreign producers. The company official supplied the Department with names of MRI's competitors who market foreign circular knitting machines in the U.S.

The Department's review revealed that the worker petition did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of customers which reduced purchases from MRI in 1980 compared to 1979 showed that none of the respondents, representing a substantial proportion of the sales decline experienced by MRI, increased purchases of imported machines during that period. A survey of customers to which MRI lost bids in 1980 revealed that the respondents' reliance on imported circular knitting machines decreased absolutely and relative to domestic production in 1979 compared with 1978 and decreased absolutely in 1980 compared to 1979 but increased relative to domestic production. MRI's sales of braiders and high pile machines increased during the period of investigation.

Data submitted by the company shows U.S. imports of circular knitting machines declining while MRI's share of the market decreased somewhat in 1980 compared to 1979 after increasing in 1979 compared to 1978. The fact that a company captures a smaller market share while imports are decreasing does not provide a basis for a certification. The increased import criterion of Section 222 of the Act would not be met.

The Department notes that import data back to 1974 were submitted by the company official. Import data several years prior to the date of the petition, which in this case is July 1, 1980, would serve little purpose since Section 223(b)(1) of the Act limits the Department to certifying workers whose layoffs are no earlier than one year before the petition date and it would be more recent import changes which would be significant.

The Department notes that the two competitors of MRI who market foreign-made circular knitting machines in the U.S. are both importers and not manufacturers. One of the importing competitors had decreased sales in both 1979 and 1980. The remaining competitor indicated that although his sales were up in 1980 compared to 1979, they were mainly in the smaller circular knitting machines—those under 26 inches. MRI produces only the 30-inch circular knitting machine which is used in the production of double knit fabrics.

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 20th day of August 1981.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-25250 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9018; 9018A; 9018B; 9018C]

Miss Capri Sportswear, Inc.; Negative Determination Regarding Application for Reconsideration

By an application dated June 29, 1981, the International Ladies' Garment Workers' Union 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 ladies' blouses at Miss Capri Sportswear plants in New York, New York; Hemlock Plant, Minersville, Pennsylvania; and Gem Plant and Pridia Plant, Tower City, Pennsylvania. The determination was published in the **Federal Register** on July 7, 1981 (46 FR 35230).

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 the 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 union claims in its application for reconsideration that data on blouse imports from the U.S. Bureau of the Census contradicts the Department's Certifying Officer's statements concerning imports in the Department's denial notice. The union also claims that the Department should have used the year 1977 as its base year since imports increased dramatically during that year.

The Department's review showed that the worker petition did not meet the increased import criterion nor the "contributed importantly" test of the Trade Act of 1974. U.S. imports of women's, misses' and children's blouses and shirts decreased absolutely and relative to domestic production in 1979 compared to 1978 and remained relatively unchanged in 1980 compared to 1979. U.S. imports decreased absolutely during the January–March 1981 period compared to the same period in 1980.

The Department recognizes that Census Bureau import data for blouses indicate increased imports for that category of articles and if other conditions were met, such data would support a certification. The Department considers women's blouses "like or directly competitive with" women's shirts and, therefore, generally uses a broader category in its import statistics than just blouses. Conceding the point that imported blouses are like or directly competitive with the blouses produced by Miss Capri and that imports of blouses increased, this would not be enough to warrant certification as the "contributed importantly" test was not met in this case. The contributed importantly test is generally demonstrated through the Department's customer survey. The Department's survey of customers purchasing blouses from Miss Capri showed that although the responding customers, as a group, somewhat increased their purchases of imported blouses, they also increased their domestic purchases of blouses, as well.

With respect to going back to 1977 to use import data on women's, misses' and children's blouses and shirts, Section 223(b)(1) of the Trade Act states that a certification cannot apply to any worker whose last total or partial separation from the firm or appropriate subdivision is more than one year prior to the date of the petition on which such certification was granted. In this case the petition was dated June 12, 1980. Under the circumstances, it would be changes in customer imports in 1979 and in 1980 that would have an impact on employment subsequent to June, 1979. As noted above, however, the customer survey for the period 1979 and 1980 did not provide a basis for certification.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error 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 20th day of August 1981.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-25251 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-28-M

Office of the Secretary

Unemployment Compensation Agencies, State of Delaware, et al.; Hearing

In the matter of State of Delaware Department of Labor, District of Columbia Department of Employment Services, State of Massachusetts Division of Employment Security, State of Minnesota Department of Economic Security, State of New York Department of Labor, State of Ohio Bureau of Employment Services, State of Pennsylvania Department of Labor and Industry, U.S. Virgin Islands Department of Labor, State of Virginia Employment Commission, and State of Wisconsin Department of Industry, Labor and Human Relations.

This notice announces an opportunity for a hearing for the unemployment compensation agencies of the States of Delaware, the District of Columbia, Massachusetts, Minnesota, New York, Pennsylvania, Ohio, Wisconsin, and the U.S. Virgin Islands (the nine States) and the unemployment compensation agency of the State of Virginia, pursuant to the last sentence of Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c) and, as applicable, Section 416(b) of the Pub. L. 96–364, 94 Stat. 1311, and Section 1025 of Pub. L. 96–499, 94 Stat. 2660, for the nine States and for the State of Virginia, to be held at nine o'clock in the morning on September 16, 1981, in Courtroom A, Vanguard Building, 1111 20th Street N.W., Washington, D.C. Each State shall have the opportunity to make a separate record.

The hearing will be on the following issues:

Issue 1: Whether, with respect to the certification of the States on October 31, 1981, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), the unemployment compensation laws of the nine States and the State of Virginia, have been amended so as to contain the provisions of section 202(c) of the Federal-State Extended Unemployment Compensation Act of 1970, (EUCA), 26 U.S.C. 3304 note, as is required by Section 3304(a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a)(11), and Section 416 of Pub. L. 96–364, 94 Stat. 1310–1311, approved September 26, 1980.

Issue 2: Whether, with respect to the certification of the States on October 31, 1981, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), the unemployment compensation laws of the nine States have been amended so as to contain the provisions of Section 202(a)(3) of the EUCA, 26 U.S.C. 3304 note, as is required by Section 3304(a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a)(11), and Section 1025 of Pub. L. 96–499, 94 Stat. 2660, approved December 5, 1980.

Issue 3: Whether, with respect to the certification of the States on October 31, 1981, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), the unemployment compensation laws of the nine States have been amended so as to contain the provisions of Section 202(a)(4) of the EUCA, 26 U.S.C. 3304 note, as is required by Section 3304 (a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a)(11), and Section 1025 of Pub. L. 96–499, 94 Stat. 2660, approved December 5, 1980.

Basis for Issues: Section 3304(a)(11) of the Code requires State unemployment compensation laws to provide, *inter alia*, that:

> Extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970.

Section 3304(c) of the Code provides that the Secretary of Labor, on October 31 of each year, shall certify each State whose unemployment compensation law he has previously approved under Section 3304(a) of the Code. The last sentence of Section 3304(c), as amended by Section 2408 of the Omnibus Budget Reconciliation Act of 1981, approved August 13, 1981, provides that:

> On October 31 of any taxable year, the Secretary of Labor shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, Secretary of Labor finds has failed to amend its law so that it contains each of provisions required by law to be included therein (including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection (a)(11)), or has, with respect to the twelve-month period ending on such October 31, failed to comply substantially with any such provision.

Issue 1. Section 416 of Pub. L. 96–364 (the Multi-employer Pension Plan Amendments Act of 1980) added a new subsection (c) to Section 202 of the EUCA, limiting to two weeks the payment of extended compensation when claimants are filing interstate claims in States in which there is no extended benefit period in effect. Section 416(b)(1) of Pub. L. 96–364 requires States to include the provisions of Section 202(c) in their unemployment compensation laws for any week which begins on or after June 1, 1981. June 1 has passed and the nine States and the State of Virginia have failed to amend their unemployment compensation laws so as to include the limitation in Section 202(c). None of the named States is entitled to the additional grace period in Section 416(b)(2) of Pub. L. 96–364, because in each State the legislature met in a regular session which began during the calendar year 1981 and before April 1, 1981.

Issues 2 and 3. Section 1024 of Pub. L. 96–499 (the Omnibus Reconciliation Act of 1980) added new paragraphs (3) and (4) to Section 202(a) of the Act. New paragraph (3) relates to a special work test to be applied to claimants for extended compensation. New paragraph (4) requires that any provision of a State law which terminates certain disqualifications without requiring work subsequent to the disqualifications shall not apply to claimants for extended compensation. Section 1025 of Pub. L. 96–499 requires States to amend their unemployment compensation laws so as to contain the provisions of new paragraphs (3) and (4) of Section 202(a) with respect to certifications of the States under Section 3304(c) of the Code on October 31 in 1981 and succeeding years. Section 1024(b) of Pub. L. 96–499 provides that the amendments in Section 1024 shall apply with respect to weeks of unemployment beginning after March 31, 1981. April 1 has passed and the nine States have failed to amend their unemployment compensation laws so as to contain the required provisions of paragraphs (3) and (4) of Section 202(a) of the Act.

The respective State unemployment compensation laws, therefore, appear not to be in conformity with the provisions of Section 3304(a)(11) of the Code. The last sentence of Section 3304(c) of the Code is, therefore, applicable to conformity proceedings on Issues 1, 2, and 3, and Section 1025 of Pub. L. 96–499 also is applicable to conformity proceedings on Issues 2 and 3.

Following the hearing a decision will be made as to each State. Such decision will have a bearing on whether the State is certifiable on October 31, 1981, with respect to normal and additional tax credits allowable to the State's

employers pursuant to Subsections (a) and (b) of 26 U.S.C. 3302 for the taxable year 1981, and will also have a bearing on other benefits to the State under the unemployment compensation program.

The proceedings in this matter shall be in accordance with the Rules of Procedure set out below.[1]

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 111 20th Street, N.W., Washington, D.C. 20036, who will be designated in accordance with the Rules of Procedure.

Signed at Washington, D.C., on August 27, 1981.

Raymond Donovan,

Secretary of Labor.

[FR Doc. 81-25327 Filed 8-27-81; 8:45 am]

BILLING CODE 4510-30-M

State of Indiana Employment Security Board; Hearing

This notice announces an opportunity for a hearing for the Indiana Employment Security Board, pursuant to the first sentence of Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), to be held at nine o'clock in the morning on September 17, 1981, in Courtroom A, Vanguard Building, 1111 20th Street N.W., Washington, D.C.

The hearing will be on the following issue:

Issue: Whether, with respect to the certification of States on October 31, 1981, under Section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c), the unemployment compensation law of the State of Indiana has been amended so that it no longer contains all of the provisions required by Section 3304(a)(6)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(6)(A)).

Section 3304(c) of the Code (first sentence) provides that the Secretary of Labor, on October 31 of each year, shall certify each State whose unemployment compensation law he has previously approved under Section 3304(a) of the Code "except that he shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has amended its law so that it no longer contains the provisions specified in subsection (a) or has with respect to the 12-month period ending on such October 31 failed to comply substantially with any such provision in such subsection."

The State of Indiana has amended its law so that it no longer provides for the payment of unemployment compensation to temporary legislative employees as is required by section 3304(a)(6)(A) of the Code.

Basis for Issue: Section 3304(a)(6)(A) of the Code requires a State unemployment compensation law to provide, *inter alia*, that all State employees, including employees of the executive, legislative, and judicial branches of the State Government, shall be covered for compensation purposes by the State unemployment compensation law, and that compensation shall be payable to such State employees "in the same amount, on the same terms, and subject to the same conditions" as compensation is payable to other workers covered by the State law. Clauses (i) to (iv) of Section 3304(a)(6)(A) specify four required or permissible exceptions to the "equal treatment" for covered State employees of educational institutions or educational service agencies. These exceptions do not include the limitation on benefits to certain temporary employees of the General Assembly contained in the Indiana unemployment compensation law.

The State of Indiana unemployment compensation law, therefore, appears not to be in conformity with the provisions of Section 3304(a)(6)(A) of the Code. Therefore, the last sentence of § 3304(c) of the Code is applicable to these Proceedings.

Following the hearing a decision will be made as to the State. Such decision will have a bearing on whether the State is certifiable on October 31, 1981, with respect to normal and additional tax credits allowable to the State's employers pursuant to Subsections (a) and (b) of 26 U.S.C. 3302 for the taxable year 1981, and will also have a bearing on other benefits to the State under the unemployment compensation program.

The proceedings in this matter shall be in accordance with the Rules of Procedure set out below.

For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, N.W. Washington, D.C. 20036, who will be designated in accordance with the Rules of Procedure.

Signed at Washington, D.C., on August 27, 1981.

Raymond Donovan,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agencies (as defined in 26 U.S.C. 3306(e)) named in the Notices of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, or organization, association of workers or employers, or the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of a brief as provided in Rule 14 below. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than seven days prior to the scheduled hearing, and shall be served promptly upon each party. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, discovery, and the designation of evidence to be offered at the hearing.

5. The Administrative Law Judge shall be authorized to entertain motions for full or partial Summary Judgment filed by any party.

6. (a) The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings and, subject to the limitation expressed in Rule 6(b) below, may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

(b) The annual October 31 certification date under the Federal Unemployment Tax Act imposes time constraints for the issuance of the Administrative Law Judge's recommended decisions, and requires

[1] See F.R. Doc. 81-25328 published below.

the granting of extensions of time, inclusive of continuances, be limited to the extent necessary to ensure that the recommended decisions are forwarded to the Secretary of Labor not later than 20 days prior to the October 31 certification date.

7. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matter in issue. Each other party to the proceeding shall then be offered a similar opportunity to make an opening statement.

8. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue specified in the Notice of Hearing.

(b) Each other party will proceed next to offer any evidence it may wish to present which is relevant to the issue referred to in Rule 8(a) above, followed by any evidence relevant to any additional issues except that evidence regarding any issue other than the issue referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each other party of record a reasonable time prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal to any additional issues(s) admitted pursuant to Rule 8(b) above, and the trial record shall thereafter be closed, except as provided for by Rule 10 below.

9. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

10. During the hearing the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter and may provide for the later receipt of such evidence for the record.

11. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party may arrange.

12. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each party of record.

13. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record and any amicus curaie authorized to present oral argument.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for every other party, unless waived; argument of any amicus curiae authorized to present oral argument; closing argument for each of the State agency parties, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

14. The parties of record and any amicus curiae authorized to participate in the proceedings shall be permitted to file briefs. The parties of record may file proposed findings of fact and conclusions of law on the matters in issue. All such briefs and other papers shall be filed with the presiding Administrative Law Judge, with proof of service, within such time periods as are established by the presiding Administrative Law Judge.

15. (a) As soon as possible, but in no event later than 20 days prior to the October 31 certification date, the presiding Administrative Law Judge shall, with respect to each State: (1) Prepare a recommended decision on the basis of the record containing his recommended findings of fact and conclusions of law; (2) Promptly certify to the Secretary of Labor such recommended decision and the entire record of the proceeding; and (3) Forward a copy of the recommended decision to each party of record and amicus curiae.

(b) In the event that evidence is admitted which is relevant to any issue cognizable under these Rules, findings of fact with respect to such evidence shall be made. No conclusions of law regarding either the constitutionality of any Federal statute or the constitutionality of interpretation thereof shall be made.

16. The parties of record may file with the Secretary a Statement of Exceptions, with proof of service, setting forth any exceptions they may have to the recommended decision, within seven (7) days after the date of the recommended decision.

17. (a) Any briefs or other papers intended to be filed of record with the presiding Administrative Law Judge in the proceedings shall be mailed or otherwise delivered to the office of the presiding Administrative Law Judge. Unless otherwise ordered, such documents shall be deemed to be filed on the date they are postmarked if they are transmitted by the United States Postal Service, and shall be deemed to be filed on the date they are received in the Office of the Chief Administrative Law Judge if they are transmitted by any other means.

(b) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a federal holiday, the time limit shall be extended to the next official business day.

(c) An original and one copy of the briefs and other papers shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with sufficient proof of prompt service upon the parties.

18. Following the certification in accordance with Rule 15 above, and consideration of any Statement of Exceptions filed and served in accordance with Rules 16 and 17, the Secretary of Labor shall render a decision in the matter with respect to each State, in writing, and shall forward the decision together with the records to the Chief Administrative Law Judge, and shall forward a copy of his decision with respect to each State, to each party of record and to any amicus curiae authorized to participate in the proceedings.

[FR Doc. 81-25328 Filed 8-27-81; 8:45 am]
BILLING CODE 4510-30-M

LEGAL SERVICES CORPORATION

Grants and Contracts; Legal Aid Society of Metropolitan Denver, Colo.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Society of Metropolitan Denver in Denver, Colorado to serve Gunnison County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, CO 80202.

Clinton Lyons,

Director Office of Field Services.

[FR Doc. 81-25235 Filed 8-27-81; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 57 and 39 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

The amendments reduce the monitoring and reporting requirements now specified to detect core barrel movement.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated March 23, 1981, (2) Amendment Nos. 57 and 39 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related letter dated August 19, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of August, 1981.

For the Nuclear Regulatory Commission.

Charles M. Trammell, III,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-25253 Filed 8-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee) for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment deletes Paragraph 2.E from your license and became effective on May 14, 1981.

The amendment deletes the license condition that required termination of operation with once-through cooling.

On November 15, 1978 the Commission issued an Order announcing its intent to review ALAB-487. The purpose of the review was to clarify the status of the aforementioned license condition in light of the pendency of the adjudicatory proceeding before the Environmental Protection Agency (EPA) to determine the type of cooling system required for Indian Point, Unit Nos. 2 and 3 and two fossil-fired generating plants located along the Hudson River. A settlement agreement, which went into effect on May 14, 1981, terminated the EPA proceeding, permitting continued use of open-cycle cooling at the Indian Point Units, coupled with a variety of compensating measures.

On February 27, 1981, Consolidated Edison Company of New York filed a motion requesting that the Commission issue an Order deleting the license condition that requires termination of operation with once-through cooling. On May 12, 1981, the Commission issued an Order to delete the license condition from the unit No. 2 and No. 3 licenses, and directed the NRC Staff to take the necessary ministerial action.

For further details with respect to this action, see (1) the Commission's Order dated May 12, 1981, (2) Amendment No. 71 to License No. DPR-26, and (3) the Commission's related letter dated August 5, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of August, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-25254 Filed 8-27-81; 8:45 am]

BILLING CODE 7950-01-M

[Docket No. 50-316]

Issuance of Amendment To Approve D.C. Cook One-Time Only Relief From Section 3.0.4 and 4.0.4; Correction

On July 30, 1981, a "Notice of Issuance of Amendment to Facility Operating License" was published on page 40 FR 40112 (August 6, 1981) which incorrectly referenced the Amendment No. and Docket No. The correct Amendment No. should have been Amendment No. 33 instead of Amendment No. 49. The correct Docket No. should have been Docket No. 50-316 instead of Docket No. 50-315.

The Notice modified License No. DPR-74 to include a one-time only relief from the requirements of Technical Specifications Section 3.0.4 and 4.0.4.

Dated at Bethesda, Maryland, this 13th day of August 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-25250 Filed 8-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369; 50-370]

Duke Power Co. (Willian B. McGuire Nuclear Station, Units 1 and 2); Order

August 24, 1981.

In conformity with the announcement in our July 22, 1981 memorandum, oral argument on the pending appeal of the Carolina Environmental Study Group will be held at *9:30 a.m. on Thursday, September 10, 1981* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland. Each side will be allotted a total of one hour for the presentation of argument. The appellant may reserve a portion of its time for rebuttal.

Each party is to notify the Secretary to this Board by letter mailed no later than September 2, 1981, of the name of the person who will present argument on its behalf.

It is so ordered.

For the Appeal Board.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 81-25255 Filed 8-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee) for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment deletes Paragraph 2.E from your license and became effective on May 14, 1981.

The amendment deletes the license condition that required termination of operation with once-through cooling.

On November 15, 1978 the Commission issued an Order announcing its intent to review ALAB-487. The purpose of the review was to clarify the status of the aforementioned license condition in light of the pendency of the adjudicatory proceeding before the Environmental Protection Agency (EPA) to determine the type of cooling system required for Indian Point, Unit Nos. 2 and 3 and two fossil-fired generating plants located along the Hudson River. A settlement agreement, which went into effect on May 14, 1981, terminated the EPA proceeding, permitting continued use of open-cycle cooling at the Indian Point Units, coupled with a variety of compensating measures.

On February 27, 1981, Consolidated Edison Company of New York filed a motion requesting that the Commission issue an Order deleting the license condition that requires termination of operation with once-through cooling.

On May 12, 1981, the Commission issued an Order to delete the license condition from the Unit Nos. 2 and 3 licenses, and directed the NRC Staff to take the necessary ministerial action.

For further details with respect to this action, see (1) the Commission Order dated May 12, 1981, (2) Amendment No. 37 to License No. DPR-64, and (3) the Commission's related letter dated August 5, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of August 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-25257 Filed 8-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266-OLA and 50-301-OLA]

Wisconsin Electric Power Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered:

Wisconsin Electric Power Company

Point Beach Nuclear Plant, Units 1 and 2 Facility Operating License Nos. DPR-24 and DPR-27

This Board is being constituted pursuant to a notice published by the Commission on August 7, 1981, in the **Federal Register** (46 FR 40359-60) entitled, "Wisconsin Electric Power Co.; Proposed Issuance of Amendment to Facility Operating License".

The Board is comprised of the following Administrative Judges:

Peter B. Bloch, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Hugh C. Paxton, 1229 41st Street, Los Alamos, New Mexico 87544

Dr. Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 21st day of August, 1981.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-25258 Filed 8-27-81; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Woolco Fashionwear Corp.; Exemption From Bond/Escrow Requirement Relating to Sale of Assets by Employer Who Contributes to Multiemployer Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Woolco Fashionwear Corportion an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if three conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. A notice of Woolco's request for exemption from the requirement, inviting comments from interested persons, was published on April 30, 1981 (46 FR 24348). Only one comment was received and that comment from the affected plan, supported the request for exemption. The exemption from the bond/escrow requirement was granted on July 17, 1981. The effect of this notice is to advise the public of the exemption.

ADDRESS: The request for an exemption, the comment received and the exemption letter are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of the exemption request and exemption letter may be obtained by mail from the PBGC Disclosure Office (Mail Stop 160) at the above address.

FOR FURTHER INFORMATION CONTACT: Ellen A. Hennessy, Office of the Executive Director, Policy and Planning (140), Suite 7300, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862.

Issued at Washington, D.C. on this 24th day of August, 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-25140 Filed 8-27-81; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11918; 812-4899]

Alpha Cash Management Fund, Inc.; Filing of Application

August 24, 1981.

Notice is hereby given that Alpha Cash Management Fund, Inc., Suite 500, 2 Piedmont Center, N.E., Atlanta, Georgia 30363, (the "Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on June 19, 1981 and an amendment thereto on August 11, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a) (41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the Applicant to calculate its net asset value per share for all classes of shares representing investments exclusively in money market securities using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant represents that it was organized as a Georgia business corporation on June 12, 1981. Pursuant to the Applicant's Articles of Incorporation, it is authorized to issue ten separate classes of voting common stock which, when issued, will each represent an investment in a different portfolio of securities. The Applicant presently intends to issue shares of two classes of stock which will represent two different portfolios of money market instruments, but it may also issue shares of subsequent classes of common stock representing investments exclusively in money market instruments. The Applicant further represents that its investment objectives with respect to each such "money market class" will be the maximization of current income to the extent consistent with the preservation of capital and the maintenance of liquidity by investing in specified types of money market instruments maturing in one year or less from the date of acquisition. The Applicant states that the Class A Common Stock (Money Market Portfolio) will consist of a portfolio of obligations issued or guaranteed by the United States Government or its agencies, authorities or instrumentalities; time deposits, certificates of deposit and bankers' acceptances of banks (including dollar denominated obligations of foreign branches of U.S. banks and U.S. branches of foreign banks); high-grade commercial paper; other high-grade corporate obligations; and repurchase agreements with respect to such of the foregoing obligations to which repurchase obligations are available. The Applicant states that the Class B Common Stock (Government Securities Portfolio) will be restricted to a portfolio of obligations issued or guaranteed by the United States Government or its agencies, authorities and instrumentalities, and repurchase obligations with respect to such obligations. Montag & Caldwell, Inc., serves as the Applicant's investment adviser.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value the portfolio securities of its existing and future money market classes by means of the amortized cost method of valuation.

In support of the exemptive relief requested, the Applicant states that it has concluded that it would be in the best interest of its shareholders to use the amortized cost valuation method to maintain a constant $1.00 per share value for each such money market class. The Applicant further represents that its use of amortized cost valuation would reduce the possibility of having forced redemptions which could be triggered automatically by the realization of negative income. In addition, the Applicant states that investors in each money market class would have the convenience of being able to determine the value of their share holdings based solely on the number of shares which they own.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes

fairly intended by the policy and provisions of the Act.

The Applicant has agreed that each of the following may be made a condition to the granting of the exemptive relief requested, each such condition to apply only with respect to the Applicant's money market classes and the portfolios for such classes:

1. In surpervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize the net asset value per share of each such money market class, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share of each money market class, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of one percent, a requirement that the directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include; redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1, above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the directors determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than September 18, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–25204 Filed 8–27–81; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the directors in the exercise of their discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value of individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 24, 1981.

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:

Nabisco Brands, Inc.
Common Stock, $2 Par Value (File No. 7–6031)
Panhandle Eastern Corp.
Common Stock, $1 Par Value (File No. 7–6032)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 16, 1981 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. 81-25261 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18053; File No. SR-NSCC-81-11]

National Securities Clearing Corp: Proposed Rule Change By Self Regulatory Organization

In the matter of proposed rule change by National Securities Clearing Corp., relating to authority of the corporation to decline to accept letters of credit; Comments requested on or before September 18, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 21, 1981, National Securities Clearing Corporation filed with the Securities and Exchange Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amend the second unnumbered paragraph of Section 1 of Rule 4, as it would read if NSCC filing 80-15 were approved, to read as follows:

Clearing Fund

Rule 4. Sec. 1.

* * * * *

The Corporation may permit part of a Member's contribution to the Clearing Fund to be evidenced by an open account indebtedness (a) secured by unmatured bearer bonds which are direct obligations of, or obligations guaranteed as to principal and interest by, the United States or unmatured bearer bonds which are general obligations of, or obligations guaranteed as to principal and interest by, a State or political subdivision thereof which are in the first or second ratings of any nationally known statistical service ("qualifying bonds"), and/or (b) as to which one or more irrevocable Letters of Credit have been issued in favor of the Corporation under which a bank, trust company or United States branch or agency of a foreign bank, in each case approved by the Corporation for such purpose, is obligated to honor drafts up to a specified amount drawn on it by the Corporation, provided that the terms and conditions of any such Letter of Credit are deemed acceptable to the Corporation in its sole discretion. *The Corporation shall decline to accept Letters of Credit issued by one or more approved banks when, in the judgment of the Corporation, such action, in light of the Corporation's statutory responsibility to safeguard securities and funds in its possession, is necessary or appropriate to prevent or deter an undue concentration, as defined by the Corporation, of Letters of Credit from one or more approved banks. Provided, however, that in any event, unless otherwise directed by the Board of Directors, the Corporation shall not accept a Letter of Credit issued by an approved bank if, by accepting that Letter of Credit, more than 20% of the total Clearing Fund consists of Letters of Credit from that issuer.* The market value of such qualifying bonds and the face amounts of such Letters of Credit shall at no time be less in the aggregate than the amount of a Member's open account indebtedness. Any amount drawn on any such Letters of Credit shall be deposited into, and constitute an additional cash contribution to, the Clearing Fund and shall reduce the Member's open account indebtedness by a corresponding amount. Qualifying bonds shall be pledged to the Corporation on such terms an conditions as it shall require. The Board of Directors may 10 business days after giving written notice thereof to all Members increase or decrease the amount of the Member's contributions required to be maintained in cash; provided that such requirement shall apply to all Members. Any qualifying bonds pledged by a Member to secure its open account indebtedness shall be held by the Corporation or for its account by a bank or trust company (other than the Member) designated by the Member and acceptable to the Corporation. Within ten calendar days prior to the expiration date of any Letter of Credit securing a Member's open account indebtedness, such Member shall make a substitution for the Letter of Credit, in accordance with the provisions of this Rule, in the amount required, effective upon or prior to the expiration of the Letter of Credit.

* * * * *

II. Self-Regulatory Organizaiton's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, National Securities Clearing Corporation included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizaiton has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to specifically recognize the authority of the Corporation to limit the acceptance of Letters of Credit which would otherwise create, in the Corporation's judgment, an undue concentration of Letters of Credit in the Clearing Fund from one issuer. The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended, in that by controlling the composition of the Clearing Fund it permits the Corporation to better safeguard securities and funds in its custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competitions

The proposed rule change will not have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have been requested by Important Notice dated July 29, 1981, sent to all NSCC participants. Any comments received will be forwarded to the Commission.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change will become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4 upon approval of NSCC's filing SR-NSCC-80-15. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission

that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 18, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 21, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25262 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18057; File No. SR-OCC-81-7]

Options Clearing Corp.; Proposed Rule Change by Self-Regulatory Organization

In the matter of proposed rule change by the Options Clearing Corporation relating to the appointment of Clearing Members to act as correspondents for other Clearing Members with respect to the settlement of exercised option contracts; Comments requested on or before September 18, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 21, 1981, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

OCC proposes to amend its Rules 212 and 913 to permit a Clearing Member (the "Appointing Clearing Member") to appoint another Clearing Member (the "Appointed Clearing Member") as its correspondent for the purpose of settlement of exercise option contracts in the Appointing Clearing Member's account. During the time such an appointment is in effect, the Appointing Clearing Member will be relieved of its obligation to designate or be a participant in a correspondent clearing corporation.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule change is to increase access to the services of OCC by providing an alternative means by which Clearing Members may obtain a correspondent for settlement of exercised options without incurring the expense of becoming participants in a correspondent clearing corporation. All of the Appointing Clearing Member's exercises and all of the exercises assigned to it will be transmitted to the Appointed Clearing Member and, in turn, to the Appointed Clearing Member's correspondent clearing corporation for settlement. The Appointing Clearing Member must continue to maintain margin on its short positions through the exercise settlement date.

This rule change is consistent with Sections 17A(b)(3)(B) and (F) of the Securities Exchange Act of 1934 (the "Act") in that it reduces an impediment to becoming a participant in OCC, fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and promotes the prompt and accurate settlement of such transactions.

(B) Burden on Competition

The proposed rule change will increase competition by increasing access to the services of OCC.

(C) Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change. No written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 18, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25263 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 34-17990; 34-18059; File No. SR-Phlx-81-10]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

In the matter of proposed rule change by Philadelphia Stock Exchange, Inc., relating to short sales; Comments requested on or before September 18, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 17, 1981 Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 proposes to delete current Exchange Rules 235 and 455 concerning short sales and to substitute therefor proposed new Exchange Rule 455. New Exchange Rule 455 would provide a restatement of Securities and Exchange Commission Rule 10a-1 ("SEC Rule 10a-1") governing short sales as it currently applies to PHLX.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The proposed rule change would provide a restatement of Securities and Exchange Commission Rule 10a-1 ("SEC Rule 10a-1") concerning short sales as it currently applies to the PHLX. In so doing, the proposed rule change would clarify that short sales relating to securities for which trades are reported pursuant to a consolidated transaction reporting system operated in accordance with a plan declared effective under Securities and Exchange Commission Rule 17a-15 ("consolidated system") are currently referenced to the price of last sales as reported in the consolidated system rather than the price of last sales effected on the PHLX as PHLX Rule 455 now provides.

The proposed rule change is based on Section 6(b)(5) of the Securities Exchange Act of 1934 which provides, in pertinent part, that the rules of the exchange be designed to prevent fraudulent acts and practices, promote just and equitable principles of trade, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 2, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 18, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25265 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18058; File No. SR-Amex-81-15]

American Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

In the matter of proposed rule change by American Stock Exchange, Inc. relating to amendments of exchange summary disciplinary procedures; comments requested on or before September 18, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(B)(1), notice is hereby given that on August 11, 1981, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Amex Rule 30 to provide for the imposition of a fee for certain reporting violations.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory basis for the Proposed Rule Change

(a) Purpose. The proposed fee system concerns violations of selected Exchange reporting requirements that are felt to be particularly important for financial monitoring or surveillance purposes. The rule change would allow for the disposition of violations of these reporting requirements in a straightforward, equitable and efficient manner.

Under the proposal, Amnex Rule 30, which presently requires members to file periodic reports with the Exchange, will be amended to provide for the imposition of a fee of $50 per day for the late filing of such reports as the Exchange may periodically specify. Those staff members responsible for the departments or divisions receiving the various reports covered by the system will be authorized to assess the $50 fee.

The imposition of this fee will not be considered a disciplinary matter under Article V of the Constitution, provided that the member or member organization does not contest the violation and pays the fee when due. If the member or member organization chooses to contest the violation or fails to pay the fee when due, the matter will be referred to the Disciplinary Committee for a hearing and the assessment of such fine as the Committee deems appropriate.

(b) Basis. The proposed amendment is consistent with Section 6(b) of the Exchange Act in general and furthers the objectives of Section 6(b)(7) of the Act in particular in that it will provide a fair procedure for the disciplining of exchange members and persons associated with exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 2, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such a longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approves such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 18, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25160 Filed 8-27-81; 8:45 am]

BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 167
Friday, August 28, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1
Federal Election Commission	2
Metric Board	3—7
National Science Foundation	8
Nuclear Regulatory Commission	9
Parole Commission	10, 11
Securities and Exchange Commission	12
Tennessee Valley Authority	13

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshime Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the following matter previously scheduled for consideration at the open meeting of the Corporation's Board of Directors to be held at 2:00 p.m. on Monday, August 31, 1981 will be withdrawn from the agenda for consideration at the meeting:

Memorandum and Resolution re: Interpretation of NOW Account Eligibility Requirements

No earlier notice of the change in the subject matter of the meeting was practicable.

Dated: August 25, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1296-81 Filed 8-26-81; 10:58 am]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, August 26, 1981 at 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Continuation of agenda from Executive Session of August 25, 1981.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1306-81 Filed 8-26-81; 3:50 pm]

BILLING CODE 6715-01-M

3

METRIC BOARD.

TIME AND DATE: 8:30 a.m., Thursday, September 10, 1981; 8:30 a.m., Friday, September 11, 1981.

PLACE: Lord Baltimore Hotel—Ballroom, Baltimore and Hanover Streets, Baltimore, Maryland 21201.

STATUS: Thursday, September 10 1981—Open to the public; Friday, September 11, 1981—Closed to the public from 8:30 a.m.–10:30 a.m. (Exemption 5 U.S.C. 552b(c)(9)(B)). 10:30 a.m.–1:00 p.m., open to the public.

MATTERS TO BE CONSIDERED: *Thursday, September 10:*

Approval of Agenda—approval of agenda for this meeting.
Review/Approval of Minutes of the Board Meeting held in Charlotte, N.C. on July 9-10, 1981.
Committee Reports—Committee Chairpersons will give a report on the status of activities in their jurisdiction.
State Conference Report—a report to the Board on the National Council on State Metrication held June 23-25, 1981 in Des Moines, Iowa.
State Charter—A report of the development process and presentation of a recommendation for approval of establishing the National Council for State Metrication as a Federal advisory committee.
Florida Metric Council—a report to the Board on three resolutions of the Florida Metric Council.
USMB Consumer Program—a presentation of Consumer Consultant's final report with staff comment and recommendations.
Small Business Study—review of progress and findings of the second in a series of small business studies. Emphasis is on the limited investments made by converting small businesses. The linkage between big business and small business conversions will also be discussed.
Agenda Items—discussion of agenda items for bimonthly meeting of the Board to be held in Denver, Colorado on November 5-6, 1981

Friday, September 11:

FY-82 Operating Plan (closed to the public)
Board Meeting Dates—discussion and approval of change in board meeting dates.
FY-83 Meeting Sites and 1982 World's Fair/Knoxville, Tennessee—discussion of sites recommended by PAE Committee for 1983 Board Meetings and consideration of revision in 1982 schedule to substitute Knoxville for a previously approved site.
Board Reception—discussion of a reception for public forum witnesses and selected civic leaders and Board constituency guests on night preceeding Public Forum.
1984 Olympics—discussion of USMB involvement and use of 1984 Olympics as high-visibility event to enhance public awareness of metrics.

CONTACT PERSON FOR FURTHER INFORMATION: Lu Verne V. Hall (703) 235-3058

Louis F. Polk,

Chairman, United States Metric Board.

[S-1301-81 Filed 8-26-81; 11:21 am]

BILLING CODE 8250-01-M

4

METRIC BOARD.

Public Forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, September 10, 1981, from 10:00 a.m. to 1:00 p.m. The Forum will be held in conjunction with the Metric Board's regular bimonthly meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum and Meeting will be held in the Ballroom of The Lord Baltimore Hotel, Baltimore and Hanover Streets, Baltimore, Maryland.

The purpose of the Forum will be to allow Board Members to receive comments about increased metric usage and voluntary metric conversion from individuals and from representatives of groups or organizations. The public is invited and encouraged to provide oral and written comments and ask questions of the Board from 11:30 a.m. to 1:00 p.m. Those who wish to participate may also submit comments or questions in advance to Chips Maurer, Office of Public Awareness and Education, United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

Louis F. Polk,

Chairman, United States Metric Board.

[S-1302-81 Filed 8-26-81; 11:21 am]

BILLING CODE 8250-01-M

2

METRIC BOARD.

Administrative and Budget Committee Meeting

TIME AND DATE: 2:00 p.m., Wednesday, September 9, 1981.

PLACE: Lord Baltimore Hotel, Salon B, Baltimore and Hanover Streets, Baltimore, Maryland 21201.

STATUS: Closed to the public (Exemption 5 U.S.C. 552b(c)(9)(B)).

MATTERS TO BE CONSIDERED: FY–82 Operating Plan and FY–83 Budget Matters.

CONTACT PERSON FOR FURTHER INFORMATION: Jerry Manolatos, 703/235–1696.

Louis F. Polk,

Chairman, United States Metric Board.

[S–1300–81 Filed 8–26–81; 11:21 am]

BILLING CODE 8250–01–M

6

METRIC BOARD.

Planning and Coordination Committee

TIME AND DATE: 1 p.m., Wednesday, September 9, 1981.

PLACE: The Lord Baltimore Hotel, Salon A, Baltimore and Hanover Streets, Baltimore, Maryland 21201.

STATUS: Open to the Public (1:00 p.m.–2:00 p.m.) Closed 2:00 p.m.–4:00 p.m.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes
2. Federal Program Report
   a. USMB input for ICMP/MOC FY–82 Probable Worklist
   b. Briefing on Federal Metric Information Referral Directory
   c. Briefing on "Federal Metic Status" Report
   d. Federal Standard-Metric Practice
3. State Meeting Report and Charter Recommendations for the Board.
4. New Business

Closed to the public:

5. Review recommended changes to FY-82 Operating Plan (Exemption 5 U.S.C. 552b (c)(9)(B))

FOR FURTHER INFORMATION CONTACT: Charles Danner, 703–235–2583.

Louis F. Polk,

Chairman, United States Metric Board.

[S–1299–81 Filed 8–26–81; 11:20 am]

BILLING CODE 8250–01–M

7

METRIC BOARD.

Research Committee Meeting

TIME AND DATE: 10 a.m., Wednesday, September 9, 1981.

PLACE: The Lord Baltimore Hotel, Salon C, Baltimore and Hanover Streets, Baltimore, Maryland 21201.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Two briefings on Research Activities:

1. A general status report of all research projects and activities.
2. A briefing of the results of the report entitled *The Search For Small Businesses With Investment in Metric Production.*

CONTRACT PERSON FOR FURTHER INFORMATION: G. Edward McEvoy, 703/235–2918.

Louis F. Polk,

Chairman, United States Metric Board.

[S–1298–81 Filed 8–26–81; 11:20 am]

BILLING CODE 8250–01–M

8

NATIONAL SCIENCE FOUNDATION.

NAME: Advisory Committee for Astronomical Sciences.

DATE: September 23 and 24, 1981.

TIME: 9:30 am–4:15 pm, September 23; 8:15 am–5:00 pm, September 24.

PLACE: September 23—VLA Site, Socorro, New Mexico; September 24—Conference Center, New Mexico Inst. of Mining and Technology, Socorro, New Mexico

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. William E. Howard, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–9488.

SUMMARY MINUTES: May be obtained from the contact person at the above address.

PURPOSE OF COMMITTEE: To provide advice and recommendations concerning research programs, proposals, and projects in NSF funded astronomy with the objective of achieving the highest qualify forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.

Agenda

September 23, 1981

Morning Session
- I. Introductory Remarks, Approval of Minutes, and Short Status Reports
- II. Budget Status
- III. Status of Proposed USAF Airstrip near KPNO
- IV. Astronomy Research Section Report
- V. Astronomy/Physics Success Ratio Study

Afternoon session
- VI. Status of 2.3m Cloudcroft Telescope proposal
- VII. Status of NTT Design Project
- VIII. Status of Dark Sky Survey
- IX. Astronomy Initiatives Plan (AIP) Discussion
- X. VLA Science/Tour

September 24, 1981

Morning session
- XI. AIP Voting and Rating
- XII. Review of Stars and Stellar Evolution Program
- XIII. Proposed Presentation by Large Grantees for NSF Spring Meeting
- XIV. Overview—Astronomy Centers Section
- XV. Reports and Concerns of Centers Directors

Afternoon session
- XVI. Discussion of AIP
- XVII. Concerns of the Committee
- XVIII. Critique of the Meeting—Chairman
- XIX. Adjourn

August 25, 1981.

M. Rebecca Winkler,

Committee Managment Coordinator.

[S–1297–81 Filed 8–26–81; 11:20 am]

BILLING CODE 7555–01–M

9

NUCLEAR REGULATORY COMMISSION.

DATE: Week of August 31, 1981.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, September 1:*

10:00 a.m.
- Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

2:00 p.m.
- Discussion and Possible Vote on Operating License for Sequoyah Unit 2 (public meeting)

Wednesday, September 2:

2:00 p.m.
- Briefing on Plan for Prioritization and Resolution of Generic Items (public meeting)

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.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

August 25, 1981.

Walter Magee,

Office of the Secretary.

[S–1307–81 Filed 8–26–81; 3:38 pm]

BILLING CODE 7590–01–M

10

PAROLE COMMISSION.

[1P0401]

Parole Commission, National Commissioners (the Commissioners

presently maintaining offices at Bethesda, Maryland, Headquarters).

TIME AND DATE: 9:30 a.m., Thursday, August 27, 1981

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 8 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:
Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5926.

[S–1305–81 Filed 8–26–81; 2:02 pm]

BILLING CODE 4410–01–M

11

PAROLE COMMISSION.

[0P0401]

Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Bethesda, MD. Headquarters).

TIME AND DATE: 9:30 a.m., Thursday, August 27, 1981.

PLACE: Room 420-F; One North Park Building; 5550 Friendship Blvd.; Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On August 25, 1981, the Commission determined that the above meeting be continued to 10:00 a.m. on Friday, August 28, 1981 for consideration of case referrals from Regional Commissioners. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, U.S. Parole Commission, (301) 492–5926.

[S–1304–81 Filed 8–26–81; 2:02 pm]

BILLING CODE 4410–01–M

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 42404, August 20, 1981.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, August 17, 1981.

CHANGES IN THE MEETING: Additional items. The following additional item was considered at a closed meeting scheduled for Tuesday, August 25, 1981, at 10:00.

Consideration of amicus participation.

The following additional items will be considered at a closed meeting scheduled for Thursday, August 27, 1981, following the 10:00 a.m. open meeting.

Litigation matter.
Freedom of Information Act appeals.
Administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Loomis, Evans and Longstreth determined that Commission business required the above changes 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: Paul Lowenstein at (202) 272–2092

August 26, 1981.

[S–1303–81 Filed 8–26–81; 11:54 am]

BILLING CODE 8010–01–M

13

TENNESSEE VALLEY AUTHORITY.

[Meeting No. 1273]

TIME AND DATE: 10:15 a.m. (e.d.t.), Wednesday, September 2, 1981.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Old Business Items

1. Final rate review.
2. Reconsideration of November 8, 1979, Board decision on the rehabilitation of Ocoee No. 2 hydroelectric project and the arrangements for recreational releases of water from it.
3. Modification of special warranty deed to Hales Bar Resort and Marina, Inc., affecting a tract of Nickajack Reservoir land—Tract No. XNJR–8.

New Business Items

A—Project Authorizations
1. Project Authorization No. 3477.2—Amendment to project authorization for demonstration of a commercial-scale coal gasification facility producing medium-Btu gas.

B—Purchase Awards
1. Sales Invitation No. 43–4421—Sale by TVA of excess time on the nuclear and fossil simulators located at the Power Operations Training Center.
2. Req. No. 529988—Requirement contract for wet-process phosphoric acid.
3. Request for Proposal No. J3–609081—Multiprocessing central processing system.
*4. Req. No. 828363—Coal barge unloading equipment for Paradise Steam Plant.

C—Power Items
*1. Amendment to letter agreement with Aluminum Company of America—Extended reduction rights and peaking deviation under the Fontana Agreement.
2. Amendment to Power contract with Pennwalt Corporation, Calvert City, Kentucky.
3. Deed conveying to the city of Chattanooga, Tennessee, a 5.74-acre portion of TVA's Falling Water 161-kV Substation site located in Hamilton County, Tennesee.
4. Deed and bill of sale conveying to the city of Fayetteville, Tennessee, TVA's Fayetteville District Substation facilities and properties.
5. Lease and amendatory agreement with Lebanon, Tennessee, covering arrangements for lease of TVA's Lebanon City Substation.
6. Contract with Electric Power Research Institute for TVA sponsorship of the pressurized water reactor safety and relief valve test program.
7. Agreement between TVA and the University of Alabama in Huntsville, covering arrangements for commercial and industrial alternative energy projects.
8. Adoption of supplemental resolution authorizing 1981 Series D Power Bonds.
9. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1981 Series D Power Bonds.

D—Personnel Items
1. Renewal of personal services contract with Consultants & Designers, Inc., New York, New York, for engineering support services, requested by the Office of Engineering Design and Construction.
2. Renewal of personal services contract with H. L. Yoh Company, Philadelphia, Pennsylvania, for engineering support services, requested by the Office of Engineering Design and Construction.
3. Supplement to personal services contract with GKT Gesellschaft Fur Kohle-Technologie mbH, Essen, West Germany, for performance of a process test program of the Koppers-Totzek Gasfication Process at the Nitrogen Fertilizer Industries, S.A., Gasification Facility in Ptolemais, Greece.

E—Real Property Transactions
1. Filing of condemnation suit.

F—Unclassified
1. Changes in designation of officers to certify vouchers.
2. Supplement to contract with the City of Triana, Alabama, covering arrangements for cooperation in a program for further

*Item approved by individual Board members. This would give formal ratification to the Board's action.

development of the City through industrial and agricultural enterprises.

3. Agreement between TVA and the Little Tennessee River Port Authority covering development of Tellico industrial property.
4. Proposed sale of surplus property—Transportation Services Branch vehicles at various locations.

CONTRACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to request for information about this meeting. Call (615) 632–3247, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: August 26, 1981.

[S-1308-81 Filed 8-26-81; 3:06 pm]

BILLING CODE 8120-01-M

federal register

Friday
August 28, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Pennsylvania: PA81–3058

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Delaware: DE81–3026	May 8, 1981.
Florida:	
FL81–1240	June 5, 1981.
FL81–1190	Mar. 6, 1981.
FL81–1254	June 26, 1981.
FL81–1260	July 6, 1981.
FL81–1270	July 17, 1981.
Hawaii: HI81–5141	Aug. 14, 1981.
Illinois: IL81–2050	Aug. 7, 1981.
Louisiana:	
LA81–4024	May 1, 1981.
LA81–4027	May 1, 1981.
LA81–4046	July 6, 1981.
Missouri: MO81–4034	May 22, 1981.
Montana:	
MI81–5138	Aug. 7, 1981.
MT81–5139	Aug. 7, 1981.
MT81–5140	Aug. 7, 1981.
Pennsylvania:	
PA79–3020	July 20, 1979.
PA80–3025	Apr. 11, 1980.
PA80–3026	Apr. 11, 1980.
PA80–3027	Apr. 18, 1980.
PA80–3026	Apr. 11, 1980.
PA80–3029	Apr. 25, 1980.
PA80–3030	May 30, 1980.
PA80–3031	Aug. 29, 1980.
PA80–3032	May 30, 1980.
PA80–3037	May 2, 1980.
PA80–3038	May 23, 1980.
PA80–3043	July 7, 1980.
PA80–3044	July 25, 1980.
PA80–3056	Sept. 12, 1980.
PA80–3060	Oct. 10, 1980.
PA80–3075	Dec. 5, 1980.
Texas:	
TX81–4006	Jan. 6, 1981.
TX81–4016	Apr. 3, 1981.
TX81–4032	May 8, 1981.
TX81–4038	June 5, 1981.
TX81–4045	July 10, 1981.
Utah: UT81–5117	May 8, 1981.
Virginia: VA81–3015	Mar. 6, 1981.
Wyoming: WY81–5108	Apr. 3, 1981.

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.

Illinois: IL79-2073(IL81-2055)	Sept. 14, 1979.
Kentucky:	
KY80-1107(KY81-1281)	Oct. 17, 1980.
KY80-1109(KY81-1282)	Oct. 3, 1980.
Maine: ME81-3008(ME81-3057)	Jan. 16, 1981.
Massachusetts: MA80-2045(MA81-3050)	July 7, 1980.
Michigan:	
MI79-2057(MI81-2057)	June 15, 1979.
MI79-2057(MI81-2058)	June 15, 1979.
Nebraska: NE81-4014(NE81-4068)	Mar. 13, 1981.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 21st day of August 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: Pennsylvania COUNTIES: Adams, Berks, Bradford, Carbon, Columbia, Cumberland Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York
DECISION NO.: PA81-3058 DATE: Date of Publication
DESCRIPTION OF WORK: Heavy and Highway Construction excluding Sewage and Water Treatment Plant Projects

HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS/PILEDRIVERMEN	11.02	.70	.90		
CEMENT MASONS:					

Starting at the Franklin County line of Route 30 at the Tuscarora Mountains, follow the Franklin County line to Juniata County line; following Juniata County line to Susquehanna River then across Susequehanna River to the Dauphin County line; continue on the Dauphin County line to the Lebanon County Line to where Route 501 intersects the Lebanon County, then follow Route 501 to Lancaster County line; thence west to Susquehanna River to Route 920 and continue to Goldsboro, Lewisberry, and Rossville to Dillsburg; thence on Route 15 to Heidlersburg; thence on Route 234 to junction with Route 334, up Routes 334 and 34 to junction of road immediately south of Fayetteville; thence through New Franklin to Marion; thence to St. Thomas, then on Route 30 through Fort Loudon to Franklin County line at Tuscarora Mountains and west to include all of Fulton County.

Cumberland, Dauphin, Juniata, Perry, Adams, Lebanon, New Cumberland Army Depot in York County	11.33	.80	.80		
Berks County	10.79		1.65		
Bradford, Lycoming, Sullivan & Union Counties	11.55	1.15	.90		.015
Columbia County	11.85	.55	.70		.01
Scranton in Lackawanna County, Susquehanna, Pike Tioga, Wayne, Wyoming Cos. Tobyhanna Army Depot in Monroe County,					
Remainder of Luzerne Co.	12.55				
Carbondale in Lackawanna County	10.45	.85	.70		
Lancaster & Remainder of York County	9.94	.35	.25		.01
Lehigh County	13.38	1.10	.50		
Luzerne County:					
Hazelton, Berwick, & Freeland Townships	13.25				
Wilkes Barre	11.05				
Monroe County					
Remainder of County	11.81	1.15	.50		

DECISION NO. PA81-3058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: CONT'D					
Snyder, Montour, & Northumberland Counties	12.45				.01
Northampton County	13.60	.60	.75		.01
Schuylkill County	11.60	.70	1.45		
IRONWORKERS:					
Structural, Ornamental & Reinforcing:					
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	12.265	1.49	1.46		.045
LABORERS:					
Asphalts, tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & signalmen, leaser beam men (pipe laying, paving machine)	9.71	.70	.30		
Pneumatic and electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	9.91	.70	.30		

DECISION NO. PA81-3058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: CONT'D					
Caisson-open air-below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators	10.26	.70	.30		
Blasters	10.49	.70	.30		
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	10.55	.70	.30		
Concrete surfaces	10.93	.70	.30		
Free Air Tunnels and Rock Shafts					
Outside laborers in conjunction tunnels & rock shafts	10.35	.70	.30		
Chuck tenders, muckers, nippers, miners, & drillers helpers, inside laborers	10.64	.70	.30		
Miners, drillers, blasters, pneumatic shield operators lining, spotting & timers workmen, reinforcing steel placer placers, bonding, aligning and securing and concrete surfacers	11.12	.70	.30		
LINE CONSTRUCTION:					
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Juniata, Perry & York Counties, Pennsylvania:					
Linemen	14.23	.60	3%		3/8%
Winch Truck Op.	9.96	.60	3%		3/8%
Truck Driver	9.25	.60	3%		3/8%
Groundman	8.54	.60	3%		3/8%

DECISION NO. PA81-3058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: CONT'D					
Berks & Lehigh Cos.					
Linemen	12.67	.60	3%		3/8%
Winch Truck Op.	8.86	.60	3%		3/8%
Truck Driver	8.19	.60	3%		3/8%
Groundman	7.55	.60	3%		3/8%
Northampton County					
Lineman	14.69	.60	3%		3/8%
Winch Truck Op.	10.28	.60	3%		3/8%
Truck Driver	9.55	.60	3%		3/8%
Groundman	8.81	.60	3%		3/8%
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susequehanna, Tioga, Union, Wayne, Wyoming Cos.					
Lineman	13.37	.55	3%		3/8%
Winch Truck Operator	9.38	.55	3%		3/8%
Truck Driver	9.19	.55	3%		3/8%
Groundman	8.97	.55	3%		3/8%
MILLWRIGHTS:					
Adams, Bradford, Cumberland, Columbia, Dauphin, Juniata, Lebanon, Luzerne Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union & Lancaster Counties & Townships in Carbon County: Banks, Lausanne, Lehigh & northern part of Packer Wyoming County, York County, New Cumberland Army Depot & Harrisburg-York State Airport	14.42	.70	.90		.05
Berks County	14.52	1.07	.95		
Lehigh & Northampton Cos.	12.15	.84	.72		.05

DECISION NO. PA81-3058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Monroe County	10.13	.44	.72		.01
Lackawanna, Susquehanna, Pike, Wayne Counties	13.59	.70	.50		.05
Remainder of Carbon Co.	12.15	.84	.72		.05
Remainder of York County	11.39	.85	.55		.03
POWER EQUIPMENT OPERATOR					
ZONE I (Heavy Construction)					
Group 1	13.14	7.9%	10.3%	a	1.8%
Group 2	12.85	7.9%	10.3%	a	1.8%
Group 3	11.97	7.9%	10.3%	a	1.8%
Group 4	11.20	7.9%	10.3%	a	1.8%
Group 5	10.72	7.9%	10.3%	a	1.8%
Group 6	9.80	7.9%	10.3%	a	1.8%
Group 7	13.39	7.9%	10.3%	a	1.8%
Group 7-A	13.64	7.9%	10.3%	a	1.8%
Group 7-B	13.89	7.9%	10.3%	a	1.8%
ZONE II					
Group 1	14.27	10%	10.3%	a	1.3%
Group 2	13.98	10%	10.3%	a	1.3%
Group 3	13.11	10%	10.3%	a	1.3%
Group 4	12.34	10%	10.3%	a	1.3%
Group 5	11.87	10%	10.3%	a	1.3%
Group 6	10.96	10%	10.3%	a	1.3%
Group 7	14.52	10%	10.3%	a	1.3%
Group 7-A	14.77	10%	10.3%	a	1.3%
Group 7-B	15.01	10%	10.3%	a	1.3%

AREA COVERED BY POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

ZONE I - Lackawanna, Susquehanna, Wyoming, Pike, Wayne, Monroe, and Luzerne Counties.

ZONE II - Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lehigh Lycoming, Montour, Northampton, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union and York Counties.

DECISION NO. PA81-3058

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above.

Group 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3¼ c.y. and over, tandem scrapers, pipping type backhoes, boat Captains batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above.

Group 3: Conveyors, building hoists(single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3¼ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above.

Group 4: Welding machines, well points, compressors, pumps, berraters, farm tractors, form line grader, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above.

DECISION NO. PA81-3058

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

Group 5: Fireman, grease truck

Group 6: Oilers and deck hands (personnel boats), core drill helper

Group 7: All machines with booms (including jib, mast, leads, etc.): 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION					
Group 1	12.67	10%	10.3%		1.3%
Group 2	11.83	10%	10.3%		1.3%
Group 3	11.32	10%	10.3%		1.3%
Group 4	10.88	10%	10.3%		1.3%
Group 5	10.33	10%	10.3%		1.3%
Group 6	12.92	10%	10.3%		1.3%
Group 6-A	13.17	10%	10.3%		1.3%
Group 6-B	13.42	10%	10.3%		1.3%

DECISION NO. PA81-3058

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1: Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pavers 21E and over, gradalls, all front end loaders, 4 cu. yds. and over, tandem scrapers, pippin type backhoes, Boat Captains, Batch plant with mixer, drill self contained (drillmaster type), CMI autograde, machines similar to above.

Group 2: Conveyor loader (EDC type), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, bulldozers and tractors, asphalt plant engineers, rollers (high grade finishing), all loaders under 4 cu. yds., mechanic-welders, motor patrols, machines similar to above.

Group 3: Welding machine, well points, compressors, pumps heaters, farm tractors, form line graders, fine grade machine, ditch witch type trencher, road finishing machines, concrete breaking machines, rolers, seaman pulverizing mixer, power broom, seeding spreader, tireman - (for power equipment) conveyors loaders other than EDC type, conveyors, machines similar to above.

Group 4: Fireman

Group 5: Oilers and deck hands

Group 6: On all machines with booms (including jibs, masts, leads, etc.) 100 ft. and over

Group 6-A: 150 ft. and over

Group 6-B: 200 ft. and over

Page 9

DECISION NO. PA81-3058	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY TRUCK DRIVERS:					
CLASS I					
Helper, stake body truck (single axle), dumpster	11.17				
CLASS II					
Dump trucks, tandem & batch trucks, semi-trailer, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributor when used for transportation stake body truck (tandem)	11.14				
CLASS III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, lowbed trailers	11.63				
Welders - Rate for craft					

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. DE81-3028 MOD. NO. 4 (46 FR 25909 - May 8, 1981) State of Delaware	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$16.24	1.35	2.00		.03
Boilermakers					
New Castle County	16.67	1.275	1.00		.02
Painters:					
Base rate	11.62	1.00	1.00		.01
Structural steel & suspended scaffolding (swing, chair & window belts)	11.84	1.00	1.00		.01
Machine taping	12.12	1.00	1.00		.01
Bridges (if surface to be painted is 50' or more above ground or water), and/or cabled scaffolding	14.10	1.00	1.00		.01
Tanks (if exposed to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior work on all tanks), sandblasting, and spray	12.17	1.00	1.00		.01
Height pay - work 75' or more from surface and additional 55c shall be paid above the applicable rate					
Piledrivermen/Wharf & Dock Builders	12.97	3.13	1.40	e	.13
Roofers:					
Composition, damp and waterproofing	15.67	1.40	.95	j	.05
Sheet Metal Workers	16.28	1.00	1.06		.09

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. FL81-1240 - MOD. #2 (46 FR 30248 - June 5, 1981) Duval County, Florida					
Change:					
Plumbers	$14.05	.70	.80		.12
Sheet Metal Workers	12.35	3%+.91	1.08		.15
DECISION NO. FL81-1190 - MOD. #4 (46 FR 15643 - March 6, 1981) Palm Beach & Martin Counties, Florida					
Change:					
POWER EQUIPMENT OPERATORS					
Group I	13.70	.74	.80		.17
Group II	13.55	.74	.80		.17
Group III	13.05	.74	.80		.17
Group IV	12.60	.74	.80		.17
Group V	12.45	.74	.80		.17
Group VI	12.10	.74	.80		.17
Group VII	11.85	.74	.80		.17
Group VIII	11.75	.74	.80		.17
Group IX	11.15	.74	.80		.17
Plumbers:					
Commercial: (51 or more plbg. fixtures, with 41 or more tons A/C)	12.84	.77	1.55		.16
Commercial: (50 or less plbg. fixtures, with 40 or less tons A/C)	11.70	.77	1.55		.16
Industrial	16.12	.77	1.55		.16

Modification Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. FL81-1254 - MOD. #1 (46 FR 33180 - June 26,1981) Bay County, Florida					
Change:					
Sprinkler Fitters	$13.90	.85	1.20		.13
DECISION NO. FL81-1260 - MOD. #3 (46 FR 34968 - July 6, 1981) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, & Melabar Radar Site in Brevard & Volusia Counties, Florida					
Change:					
Roofers:					
Roofers	10.00	.45	.45		.10
Kettlemen	8.55	.45	.45		.10
DECISION NO. FL81-1270 - MOD. #1 (46 FR 37166 - July 17,1981) Broward County, Florida					
Change:					
Power Equipment Operators					
Group I	13.70	.74	.80		.17
Group II	13.55	.74	.80		.17
Group III	13.05	.74	.80		.17
Group IV	12.60	.74	.80		.17
Group V	12.45	.74	.80		.17
Group VI	12.10	.74	.80		.17
Group VII	11.85	.74	.80		.17
Group VIII	11.75	.74	.80		.17
Group IX	11.15	.74	.80		.17
Roofers:					
Roofers	11.20	.60	.20	.90	
Kettlemen	10.23	.60	.20	.90	

Modification Page 4

DECISION NO. HI81-5141 - Mod. #1 (46 FR 41312 - August 14, 1981) Statewide, Hawaii	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Electricians; Linemen	$13.64	1.22	1.94+15%	11.6%	.55
Technicians	14.05	1.22	1.94+15%	11.6%	.55
Cable Splicers	15.00	1.22	1.94+15%	11.6%	.55
LINE CONSTRUCTION WORKERS:					
Electricians; Linemen	13.64	1.22	1.94+15%	11.6%	.55
Technicians		1.22	1.94+15%	11.6%	.55
Heavy Equipment Operator	12.28	1.22	1.94+15%	11.6%	.55
Groundmen	10.23	1.22	1.94+15%	11.6%	.55
Cable Splicers	15.00	1.22	1.94+15%	11.6%	.55
PAINTERS:					
Brush	13.05	.84	3.00	1.00	.10
Tapers	13.30	.84	3.00	1.00	.10
Spray; Sandblaster	13.55	.84	3.00	1.00	.10
ROOFERS	12.90	1.25	1.70	.65	.15
DECISION NO. IL81-2050 - MOD. #1 (46 FR 40429 - August 7, 1981) Adams, Brown, Bureau, Fulton, Hancock, Henderson, Henry, Knox, LaSalle, Livingston, Logan, McDonough, McLean, Marshall, Mason, Menard, Mercer, Pike, Putnam, Rock Island, Schuyler, Stark, Warren, & Woodford Cos., Illinois					
Change:					
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:					
Bureau (W. of Hwy #88), Henry, Mercer, & Rock Island Cos.:					
Carpenters; Soft Floor Layers	$14.91	.75	1.30		.08
Millwrights	16.65	.75	1.45		.25
Piledrivermen	15.41	.75	1.30		.08

Modification Page 5

DECISION NO. LA81-4024 - MOD. #7 (46 FR 24820 - May 1, 1981) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit all rates & classifications for Zone 3 Roofers					
ADD:					
Roofers:					
Zone 3:					
Roofers	$10.48	.75	.85		.04
Preparers removes old roofing material, places, stocks or moves material, tools or equipment for the journeyman	5.00				
CHANGE:					
Electricians:					
Zone 3 - Electricians	16.75	.55	3%+.40		5/10%
Cable splicers	17.25	.55	3%+.40		5/10%
Plumbers & pipefitters:					
Zone 3	13.10	1.05	1.20		.10
Truck drivers:					
Zone 4 - Group 1	10.18				
Group 2	10.48				
Group 3	10.63				
Group 4	10.83				
Group 5	10.98				
Group 6	10.78				
Power equipment operators:					
Zone 1 - Group 1	8.97	.65	1.10		.10
Group 2	9.71	.65	1.10		.10
Group 3	9.80	.65	1.10		.10
Group 4	10.17	.65	1.10		.10
Group 5	11.40	.65	1.10		.10
Group 6	11.45	.65	1.10		.10
Zones 3 & 4 - Group 1	8.82	.65	1.10		.10
Group 2	9.73	.65	1.10		.10
Group 3	9.82	.65	1.10		.10
Group 4	10.24	.65	1.10		.10
Group 5	12.17	.65	1.10		.10
Group 6	11.92	.65	1.10		.10

DECISION NO. LA81-4024 - MOD. #7 (Cont'd)

POWER EQUIPMENT OPERATORS - ZONE 1 CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor, Asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe); Front end loader 1½ yd. bucket & below
GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derrick; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders over 1½ yd. bucket (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)
GROUP 6 - Unit & well point operator

POWER EQUIPMENT OPERATORS - ZONE 3 CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor, Asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derrick; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)
GROUP 6 - Unit & well point operator

DECISION NO. LA81-4024 - MOD. #7 (cont'd)

POWER EQUIPMENT OPERATORS - ZONE 4 CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor, Asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle; buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derrick; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)
GROUP 6 - Unit operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA81-4027 - MOD. #6 (46 FR 24834 - May 1, 1981) Bossier, Caddo & Calcasieu Pars., Louisiana					
CHANGE: Electricians: Calcasieu Parish:					
Electricians	$16.75	.55	3%+.40		5/10%
Cable splicers	17.25	.55	3%+.40		5/10%
DECISION NO. LA81-4046 - MOD. # 3 (46 FR 34974 - July 6, 1981) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Pars., Louisiana					
CHANGE: Electricians:					
Zone 1 - Electricians	16.75	.55	3%+.40		5/10%
Cable splicers	17.25	.55	3%+.40		5/10%

DECISION #MO81-4034 - Mod. #2
(46 FR 28102 - May 22, 1981)
STATEWIDE, MISSOURI

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Cement Masons:					
Zone 1	$13.925	.80	.85		
Electricians:					
Zone 6	14.79	.91	3%+5½%	15½%	.10
Zone 7					
Electrical contracts over $15,000.00	14.79	.91	3%+5½%	15½%	.10
Zone 8	13.84	.91	3%+5½%	15½%	.10
Zone 9	10.70	.91	3%+5½%	15½%	.10
Zone 10	7.56	.91	3%+5½%	15½%	.10
Zone 13	14.47	.60	3%+1.00	7%	.01
Zone 14					
Electricians	12.26	.65	3%+1.00	5%	.01
Cable splicers	12.61	.65	3%+1.00	5%	.01
Ironworkers:					
Zone 1	14.725	.80	1.05		.06
Zone 5	14.95	.80	1.05		.06
Painters:					
Zone 1					
Brush and roller	13.59	.55	.75		.08
Spray	14.59	.55	.75		.08
Bridge	14.34	.55	.75		.08
Zone 4					
Brush and roller	11.00	1.00	.70	.50	
Spray, structural steel & sandblasting	12.25	1.00	.70	.50	
Zone 7					
Brush, roller	11.77		.55		
Spray	12.27		.55		
Zone 8					
Brush	11.70		.20		
Spray & steel	12.20		.20		

DECISION NO. MT81-5138 - Mod. #1
(46 FR 40439 - August 7, 1981)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Area 1:					
Carpenters	$11.93	.90	$1.25		.06
Millwrights	12.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Ironworkers:					
Area 1	14.15	1.05	1.60		.15
Area 3	14.41	1.05	1.60		.15
Line Construction:					
Statewide, except Flathead, Lake and Lincoln Counties:					
Linemen, Pole Sprayer	14.71	.45	3%+.50		1/2%
Cable Splicers	15.73	.45	3%+.50		1/2%
Line Equipment Operator: Powderman	13.00	.45	3%+.50		1/2%
Groundman	10.52	.45	3%+.50		1/2%
Painters:					
Area 6	13.67	.84	.50		.04
Sheet Metal Workers:					
Area 1	15.47	.83	.66		.24
Area 2	15.38	.83	.98		.24
Area 3	15.19	1.34	.98		.24
Area 4	15.19	.83	.75		.24
Area 5	14.99	.83	.98		.24

DECISION #MT81-5139 - Mod. #1
(46 FR 40448 - August 7, 1981)
Statewide, Montana

Change:					
Bricklayers: Marble Masons:					
Area 3	16.20		.90		
Carpenters:					
Area 1:					
Carpenters	12.05	.90	1.25		.06
Millwrights	13.05	.90	1.25		.06
Piledrivermen	12.30	.90	1.25		.06

DECISION NO. MT81-5139 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 2:					
Carpenters	$11.93	.90	$1.25		.06
Millwrights	12.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Area 3:					
Carpenters	11.93	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Area 4:					
Carpenters	12.52	.90	1.25		.06
Millwrights and Piledrivermen	12.77	.90	1.25		.06
Area 5:					
Carpenters	11.93	.90	1.25		.06
Millwrights	13.12	.90	1.25		.06
Piledrivermen	12.23	.90	1.25		.06
Area 6:					
Carpenters	11.93	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Area 7:					
Carpenters	11.93	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Area 10:					
Carpenters	11.93	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Electricians:					
Area 3	11.47		3%		1/2%
Ironworkers:					
Area 1	14.15	1.05	1.60		.15
Area 3	14.41	1.05	1.60		.15
Line Construction:					
Statewide, except Flathead, Lake and Lincoln Counties:					
Lineman, Pole Sprayer	14.71	.45	3%+.50		1/2%
Cable Splicer	15.73	.45	3%+.50		1/2%
Line Equipment Operator; Powderman	13.00	.45	3%+.50		1/2%
Groundman	10.52	.45	3%+.50		1/2%

DECISION NO. MT81-5139 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Area 6	$13.67	.84	.50		.04
Sheet Metal Workers:					
Area 1	15.47	.83	.66		.24
Area 2	15.38	.83	.98		.24
Area 3	15.19	1.34	.98		.24
Area 4	15.19	.83	.75		.24
Area 5	14.99	.83	.98		.24
DECISION #MT81-5140 - Mod. #1 (46 FR 40467 - August 7, 1981) Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow, and Valley Counties, Montana					
Change:					
Carpenters:					
Area 1:					
Carpenters	12.05	.90	1.25		.06
Piledrivermen; Saw Filer; Sawman	12.30	.90	1.25		.06
Millwrights	13.05	.90	1.25		.06
Area 2:					
Carpenters	12.52	.90	1.25		.06
Piledrivermen and Millwrights	12.77	.90	1.25		.06
Area 3:					
Carpenters	11.93	.90	1.25		.06
Piledrivermen	12.23	.90	1.25		.06
Millwrights	13.12	.90	1.25		.06
Area 4:					
Carpenters	11.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06

DECISION NO. MT81-5140 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 5:					
Carpenters	$11.93	.90	$1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06
Area 7:					
Carpenters	11.93	.90	1.25		.06
Piledrivermen	12.18	.90	1.25		.06
Millwrights	12.93	.90	1.25		.06
Painters:					
Area 3	10.93	.84	.50		.04
Sheet Metal Workers:					
Area 1	15.19	.83	.75		.24
Area 2	14.99	.83	.98		.24
Area 3	15.38	.83	.98		.24
Area 4	15.19	1.34	.98		.24

DECISION NO. PA79-3020 - MOD. #6
(44 FR 42880 - July 20, 1979)
Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania

DECISION NO. PA80-3025 - MOD. #11
(45 FR 25015 - April 11, 1980)
Adams & York Counties, Pennsylvania

DECISION NO. PA80-3026 - MOD. #9
(45 FR 25017 - April 11, 1980)
Lehigh County, Pennsylvania

DECISION NO. PA80-3027 - MOD. #10
(45 FR 266654 - April 18, 1980)
Schuylkill County, Pennsylvania

DECISION NO. PA80-3028 - MOD. #9
(45 FR 25019 - April 11, 1980)
Berks County, Pennsylvania

DECISION NO. PA80-3029 - MOD. #11
(45 FR 28069 - April 25, 1980)
Labanon County, Pennsylvania

DECISION NO. PA80-3030 - MOD. #7
(45 FR 36764 - May 30, 1980)
Luzerne County, Pennsylvania

DECISION NO. PA80-3031 - MOD. #8
(45 FR 59747 - August 29, 1980)
Bradford, Tioga, Union Counties, Pennsylvania

DECISION NO. PA80-3032 - MOD. #9
(45 FR 36767 - May 30, 1980)
Columbia, Montour & Snyder Counties, Pennsylvania

DECISION NO. PA80-3037 - MOD. #9
(45 FR 29522 - May 2, 1980)
Sullivan County, Pennsylvania

DECISION NO. PA80-3038 - MOD. #9
(45 FR 35148 - May 23, 1980)
Lancaster County, Pennsylvania

DECISION NO. PA80-3043 - MOD. #10
(45 FR 45849 - July 7, 1980)
Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania

Modification Page 14

DECISION NO. PA80-3044 -
MOD. #9
(45 FR 49839 - July 25, 1980)
Northumberland County, Pennsylvania

DECISION NO. PA80-3056 -
MOD. #7
(45 FR 60748 - September 12, 1980)
Lackawanna, Susquehanna, Wayne and Wyoming Counties, Pennsylvania

DECISION NO. PA80-3060 -
MOD. #6
(45 FR 67531 - October 10, 1980)
Lycoming County, Pennsylvania

DECISION NO. PA80-3075 -
MOD. #5
(45 FR 80638 - December 5, 1980)
Northampton County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
DESCRIPTION OF WORK: "excluding sewage and water treatment plant projects"					
OMIT:					
Description of Work: Heavy & Highway Construction					
Heavy & Highway:					
Carpenters/Piledrivermen					
Laborers					
Power Equipment Operator					
Truck Drivers					

Modification Page 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4006 - MOD. #6 (46 FR 1547 - January 6, 1981) Brazos County, Texas					
CHANGE:					
Sheet metal workers	$15.26	3%+.525	.825	.42	.10
DECISION NO. TX81-4016 - MOD. #6 (46 FR 20450 - April 3, 1981) Travis County, Texas					
CHANGE:					
Sheet metal workers	14.87	3%+.65	1.32		.12
DECISION NO. TX81-4032 - MOD. #6 (46 FR 25981 - May 8,1981) Galveston & Harris Cos., Texas					
CHANGE:					
Sheet metal workers	15.26	3%+.525	.825	.42	.10
DECISION NO. TX81-4038 - MOD. #5 (46 FR 30287 - June 5, 1981) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE:					
Electricians:					
Zone 2:					
Electricians	14.20	.60	8%		1%
Cable splicers	15.62	.60	8%		1%

Modification Page 16

DECISION NO. TX81-4045 - MOD. #2
(46 FR 35892 - July 10, 1981)
Bexar County, Texas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Sheet metal workers	$14.87	3%+.65	1.32		.12
Plumbers & pipefitters	15.93	.75	.88		.10

DECISION NO. UT81-5117 - Mod. #4
(46 FR 25986 - May 8, 1981)
Statewide, Utah

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:	AREA 1	AREA 2				
Power Equipment Operators:						
Heavy and Highway Construction:						
Group 1	$12.51	$14.51	$1.38	$2.15	$1.22	.17
Group 2	12.86	14.86	1.38	2.15	1.22	.17
Group 3	13.04	15.04	1.38	2.15	1.22	.17
Group 4	13.15	15.15	1.38	2.15	1.22	.17
Group 5	13.61	15.61	1.38	2.15	1.22	.17
Group 6	13.76	15.76	1.38	2.15	1.22	.17
Group 6-A	13.87	15.87	1.38	2.15	1.22	.17
Group 7	14.17	16.17	1.38	2.15	1.22	.17
Group 7-A	14.23	16.23	1.38	2.15	1.22	.17
Group 8	14.29	16.29	1.38	2.15	1.22	.17
Group 9	14.45	16.45	1.38	2.15	1.22	.17
Group 10	14.89	16.89	1.38	2.15	1.22	.17
Group 10-A	15.85	17.85	1.38	2.15	1.22	.17
Group 10-B	16.30	18.30	1.38	2.15	1.22	.17
Group 11	16.46	18.46	1.38	2.15	1.22	.17

Modification Page 17

DECISION NO. UT81-5117 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel Erection:					
Group 1	$13.70	$1.38	$2.15	$1.22	.17
Group 2	14.15	1.38	2.15	1.22	.17
Group 3	15.38	1.38	2.15	1.22	.17
Group 4	15.55	1.38	2.15	1.22	.17
Group 4-A	15.92	1.38	2.15	1.22	.17
Group 5	16.52	1.38	2.15	1.22	.17
Group 6	17.04	1.38	2.15	1.22	.17
Group 7	17.40	1.38	2.15	1.22	.17
Group 8	17.75	1.38	2.15	1.22	.17
Group 9	19.01	1.38	2.15	1.22	.17
Piledriving:					
Group 1	13.13	1.38	2.15	1.22	.17
Group 1-A	13.54	1.38	2.15	1.22	.17
Group 1-B	13.79	1.38	2.15	1.22	.17
Group 2-A	13.79	1.38	2.15	1.22	.17
Group 2-B	14.44	1.38	2.15	1.22	.17
Group 2-C	14.69	1.38	2.15	1.22	.17
Group 2-D	14.87	1.38	2.15	1.22	.17
Group 3	15.05	1.38	2.15	1.22	.17
Group 3-A	15.57	1.38	2.15	1.22	.17
Group 4	16.23	1.38	2.15	1.22	.17
Group 5	16.44	1.38	2.15	1.22	.17
Group 6	17.81	1.38	2.15	1.22	.17

Omit:
Group 6-A rate from Steel Erection, and Classifications

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA81-3015-Mod. #7 (46 FR 15666-March 6,1981) Radford Army Ammunition Plant, Virginia CHANGE: ELECTRICIANS	$11.85	.50	3%		½%
DECISION NO. WY81-5108 - Mod. #5 (46 FR 20477 - April 3, 1981) Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming					
Change:					
Asbestos Workers	$15.39	.75	$1.49		
Bricklayers; Stonemasons:					
Area 1	13.64	.70	.50		.07
Cement Masons:					
Cement Masons	13.20	.55			.15
Working on swinging stage or temporary platform over 20 ft.	13.70	.55			.15
Composition material, epoxy	13.70	.55			.15
Elevator Constructors	14.88	1.345	.95	a	.035
Elevator Constructors' Helpers	10.42	1.345	.95	a	.035
Elevator Constructors' Helpers (Prob.)	7.44				

SUPERSEDEAS DECISION

STATE: ILLINOIS COUNTIES: *SEE BELOW
DECISION NUMBER: IL81-2055 DATE: Date of Publication
Supersedes Decision No. IL79-2073, dated September 14, 1979 in 44 FR 53616
DESCRIPTION OF WORK: Heavy & Highway Construction Projects (including Dredging)

*Bureau, Carroll, Henry, JoDaviess, Lee, Ogle, Rock Island, Stephenson, Whiteside, & Winnebago

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Bureau Co.	$14.78	1.00	1.15		.06
Carroll, JoDaviess, & Stephenson Cos.	13.40	.75	.75		
Henry, Ogle (Oregon & S. thereof), & Rock Island Cos.	14.72	.75	1.30		.08
Lee Co.	13.225	.55	1.00		
Ogle (N. of Oregon), & Winnebago Cos.	12.15	.65	2.00		
Whiteside Co.	13.30	.75	.75		
CEMENT MASONS:					
Bureau Co.	15.60		1.00		
Carroll, JoDaviess, Lee, Ogle, Stephenson, & Whiteside (Exclu. Erie & SW thereof) Cos.	14.11	.90	1.25		
Henry (E ½) Co.	13.95		1.00		
Henry (W ½), Rock Island, & Whiteside (Erie & SW thereof) Cos.	12.57	.70	.60		
Winnebago Co.	11.78	.55	1.00		
ELECTRICIANS:					
Bureau (Walnut, Ohio, Lamoille, Clareton, Bureau, Dover, Cherry, Malden, Arlington, Berlin, & Westfield Twps.) Co.	17.40	.88	3%+.88		.6%
Bureau (Arispe, Concord, Fairfield, Gold, Greenville, Hall, Indiantown, Leepertown, Macon, Manilus, Milo, Mineral, Neponset, Princeton, Shelby, Wheatland & Wyanet Twps.), & Henry (Annawan, Burns, Cambridge, Galva, Kewanee, Weller & Whethersfield Twps.) Cos.	15.80	.55	3%+.70		½%
Henry Co. (Annawan, Burns, Cambridge, Galva, Kewanee, Weller & Whethersfield Twps.) Contracts not exceeding $4,000.00	15.30	.55	3%+.70		½%

DECISION NO. IL81-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carroll (Cherry Grove, Shannon, Rock Creek, Lima, Wysox & Elk Elkhorn Grove Twps.), JoDaviess (Warren, Rush, Nora, Stockton, Wards Grove, Pleasant Valley & Berrenman Twps.), Lee, Ogle, Stephenson, Whiteside (Genesee, Jordan, Hopkins, Sterling, Hume, Montgomery, Tampico, & Hahnaman Twps.), & Winnebago Cos.	$15.38	.75	3%+.80		½%
Carroll (Chadwick, Mt. Carroll, Savanna & Thompson Cities), Henry (Rem. of Co.), JoDaviess (Savanna Ordnance Plant), Rock Island, & Whiteside (Rem. of Co.) Cos.	16.34	.70	7.5%		.06
JoDaviess (Rem. of Co.) Co.	13.55	.75	3%+.50		3/4%
IRONWORKERS:					
Bureau Co.	16.58	.915	1.355		.02
Carroll (Thompson, Savanna & Vic.), Henry, JoDaviess (E. Dubuque, Galena, Hanover & Vic.), Rock Island, & Whiteside (W½) Cos.	16.60	.75	1.125		.30
Carroll (Rem. of Co.), JoDaviess (Rem. of Co.), Lee, Ogle, Stephenson, Whiteside (E½), & Winnebago Cos.	14.25	.90	2.375		.10
LABORERS:					
Henry Co.:					
Unskilled	12.80	.65	1.25		.05
Semi-Skilled	13.00	.65	1.25		.05
Skilled	13.20	.65	1.25		.05
LINE CONSTRUCTION:					
Bureau Co.:					
Linemen	15.80	.45	3%		.5%
Groundmen Equipment Operators	14.74	.45	3%		.5%
Groundman Truck Drivers:					
W/Winch	11.20	.45	3%		.5%
WO/Winch	10.54	.45	3%		.5%
Groundman	10.05	.45	3%		.5%

DECISION NO. IL81-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carroll (E. part inclu. Cities of Lanark, Milledgeville, & Shannon), JoDaviess (Apple River & E. thereof), Lee, Ogle, Stephenson, Whiteside (E. of Clyde, Lyndon, Mt. Pleasant & Prophetstown), & Winnebago Cos.:					
Linemen; Diggers Operator; & Crane Operator (15 tons or over)	$15.29	.60	3%	a	½%
Equipment Operator	12.96	.60	3%	a	½%
Truck Drivers	10.30	.60	3%	a	½%
Groundman	9.96	.60	3%	a	½%
Carroll (Rem. of Co.), Henry, JoDaviess, Rock Island, & Whiteside Cos.:					
Linemen; Heavy Equipment Ops. & Technicians	14.07	.45	3%		½%
Cable Splicers	14.17	.45	3%		½%
Dynamiter	11.97	.45	3%		½%
Groundman Equipment Op.	11.39	.45	3%		½%
Groundman Truck Drivers:					
W/Winch	10.06	.45	3%		½%
WO/Winch; Groundmen	9.72	.45	3%		½%
PAINTERS:					
Bureau Co.:					
Brush	11.00	.60	.45		
Sandblasting; Spray	12.00	.60	.45		
Carroll, Lee, Ogle, & Whiteside Cos.:					
Brush	10.53				
Spray; Structural Steel	10.88				
Henry, JoDaviess, & Rock Island Cos.:					
Brush; Roller	13.77	.70	1.50		.22
Spray; Structural Steel	14.27	.70	1.50		.22
Bridges	15.02	.70	1.50		.22
Stephenson & Winnebago Cos.:					
Brush; Roller	14.45	.90	.50		.02
Open Structural	14.70	.90	.50		.02
Spray	15.00	.90	.50		.02

DECISION NO. IL81-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN:					
Bureau Co.	14.78	1.00	1.00		.03
Henry, Ogle (Oregon & South thereof), Rock Island, & Whiteside (W. of Hwy #78) Cos.	15.41	.75	1.30		.08
Lee (E ½ inclu. Roxbury & Compton) & Ogle (Rochelle & Vic.) Cos.	14.78	1.00	1.35		.02
Lee (Rem. of Co.) Co.	14.88	.55	.50		
Whiteside (E. of Hwy #78) Co.	12.73	.75	.75		.04
Winnebago Co.	13.26	.65	1.47		
TRUCK DRIVERS:					
Carroll (N. of Rte #72 & E. of Rte #78), JoDaviess (E. of Rte #78 exclu. Stockton), Stephenson, & Winnebago Cos.:					
2-3 Axles	12.00	.55	1.00		
4 Axles	12.15	.55	1.00		
5 Axles	12.35	.55	1.00		
6 Axles	12.55	.55	1.00		
Lee (E. of Rte #51), & Ogle (E. of Rte #51) Cos.:					
2-3 Axles	12.25	29.00b	33.00b		
4 Axles	12.40	29.00b	33.00b		
5 Axles	12.60	29.00b	33.00b		
6 Axles	12.80	29.00b	33.00b		

FOOTNOTES:
a. 4 Paid Holidays: Memorial Day; July 4th; Labor Day; & Thanksgiving Day
b. Per Week Per Employee

DECISION NO. IL81-2055

ILL-50-LAB-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Bureau County -					
Unskilled	$12.67	.65	1.20		.04
Semi-Skilled	12.87	.65	1.20		.04
Skilled	13.07	.65	1.20		.04

Unskilled Laborers: Common; Carpenter Tenders; Tool Cribman; Firemen or Salamander Tenders; Flagmen; Gravel Box Men; Dumpmen and Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Dispatchers; Landscapers; Unloading Explosives; Laying of Sod; Planting and Removal of Trees; Asphalt Plant Laborers; Wrecking Laborers; Fireproofing Laborers; Wrecking-Dismantling Buildings; Wallmen and Housemovers; Driving of Stakes; Stringlines for All Machinery

Semi-Skilled Laborers: Handling of Materials Treated with Oil, Creosote, Asphalt and/or other Foreign Material; Track Laborers; Cement Handlers; Chloride Handlers; the Unloading and Laborers w/Steel Workers and Rebars; Concrete Workers (Wet); Tunnel Tenders in Free Air; Batch Dumpers; Mason and Plasterer Tenders and Material Wheelers; Kettlemen and Tarmen; Tank Cleaners; Plastic Installers; Scaffold Workers; Motorized Buggies or Motorized Units used for Wet Concrete or Handling of Building Materials; Laborers w/Dewatering Systems; All Sewer Workers, plus Depth; Asphalt Raker; Grade Checker; Vibrator Operators; Mortar Mixer Operator; Cement Silica, Clay, Fly Ash, Lime and Plasters; Handlers (Bulk or Bag); Cofferdam Workers, plus Depth (on Concrete Paving); Placing, Cutting and Tying or Reinforcing; Dock Hand; Dredge Hand and Shore Laborers; Bankmen on Floating Plant

Skilled Laborers: Dynamite Man or Blasters; Caisson Workers, plus Depth; Gunnite Nozzle Men; Leadman on Sewer Work; Welders; Cutters; Burners; Torchmen; Chain Saw Operator; Jackhammer and Drill Operators; Layout Man; Steel Form Setters (Street and Highway); Air Tamping Hammerman; Signal Man on Crane; Concrete Saw Operator; Screedman on Asphalt Pavers; Laborers Tending Masons w/Hot Materials are used; Multiple Concrete Duct-Leadmen; Lutemen; Curb Asphalt Machine Operator; Ready-mix Scalemen; Portable or Temporary Plant; Laborers Handling Masterplate or similar materials; Laser Beam Operator; Coring Machine Operator; Concrete Burning Machine Operator

DECISION NO. IL81-2055

LABORERS: Rock Island County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Unskilled	11.27	.50	1.00		.035
Semi-Skilled	11.52	.50	1.00		.035
Skilled	11.77	.50	1.00		.035

UNSKILLED - Common Laborer; Carpenter Tender; Flagman; Gravel Box Men; Dumpmen & Spotter; Form Handlers; Fencing Laborers; Cleaning Lumber; Dispatchers; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Asphalt Plant Laborers; Wrecking Laborers; Scaleman; Deck Hand

SEMI-SKILLED - Laying & Jointing of Telephone Conduit; Darco & Jackhammer Operator; Operator on Power Tools used under the jurisdiction of Laborers; Cement Jumper; Puddler; Power & Hand Saw (when clearing timber); Center Strip; Reinforcing in Concrete; Wire Mesh; Concrete Saw; Mortar Mixer; Prime Mover or any Mechanical Device taking the place of Concrete Buggy or Wheelbarrow; Sand Point Setter; Asphalt Kettleman; Mastic Asphalt Mixerman or other preparations used on Joints; Sheeting Hammer Drivers (2-Men); Backup Man or Joint Man with Pipelayer; Laborer in Ditch or Tunnel on Sewer & Water Main & Telephone Conduit; Gas Distribution Men; Pipe Setter on Laterals, Drain Tiles, Culvert Pipe, & Storm Sewer Connections to Catch Basins, Manholes or Main Line; Handling of Materials treated with Oil, Creosote, Asphalt and/or any Foreign Material harmful to Skin or Clothing; Chloride Handlers; The Unloading & Laborers with Steel Workers & Re-Bars; Batch Dumpers; Tank Cleaners; Cofferdam Workers; Bankmen on Floating Plant

SKILLED - String or Wireline (1 Man); Head Form Setter; Dynamite Man; Asphalt Raker; Tunnel Miner; Pipelayer on Sewer & Water Main; Gunnite Nozzle Man; Welders; Cutters; Burners & Torchman; Screedman on Asphalt Pavers; Luteman; Curb Asphalt Machine Operator; Laser Beam Operator; Concrete Burning Machine Operator; Coring Machine Operator; Head Grade Man

DECISION NO. IL81-2055

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carroll, JoDaviess, Lee, Ogle (Exclu. City of Rochelle), Stephenson, & Whiteside Cos.:					
Class I	$12.80	.65	.80		.05
Class II	13.00	.65	.80		.05
Class III	13.10	.65	.80		.05
Ogle (City of Rochelle) Co.:					
Class I	12.30	.65	1.30		.05
Class II	12.50	.65	1.30		.05
Class III	12.60	.65	1.30		.05
Winnebago Co.:					
Class I	12.45	.65	1.15		.05
Class II	12.65	.65	1.15		.05
Class III	12.75	.65	1.15		.05

CLASS I: Common Laborers; Carpenters' Tenders; Tool, Cribmen, Firemen, or Salamander Tenders; Flagmen; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Dispatchers; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Asphalt Plant Laborers; Wrecking Laborers; Fireproofing Laborers; Driving of Stakes; Stringlines for all Machinery; Asphalt Workers with Machine & Layers; Grade Checker; Signal Man on Crane; Coring Machine Operator; Concrete Workers (wet), on Concrete Paving; Placing, Cutting and Typing of Reinforcing Steel Form Setters-Street and Highway

CLASS II: Scaffold Workers; Handling of Materials Treated with any Foreign Matter Harmful to Skin or Clothing; Bulk Cement Handlers; Unloading of Re-Bars; Tunnel Tenders in Free Air; Batch Dumpers; Mason Tenders; Kettle and Tar Men; Tank Cleaners; Plastic Installers; Motorized Buggies or Motorized Unit Used for Wet Concrete or Handling of Building Materials; Vibrator Operators; Mortar Mixer Operators; Cement Silica; Clay Fly Ash; Lime and Plasters Handlers (Bulk or Bag); Deck Hand; Dredge Hand and Shore Laborers; Bankmen on Floating Plant; Power Tools; Material Selector (Firebrick or Castable Material); Chain Saw Operators; Air Tamping Hammerman; Concrete Saw Operator; Front End Man on Chip Spreader; Luteman; Asphalt Raker

CLASS III: Jackhammer and Drill Operators; Laborers with De-Watering Systems; Bottom Sewer Workers Plus Depth; Cofferdam Workers Plus Depth; Caisson Workers Plus Depth; Gunnite Nozzle Men; Leadman on Sewer Work; Welders, Cutters, Burners, & Torchmen; Layout Man and/or Tile Layer; Screenman on Asphalt Pavers; Laborers Tending Masons with Hot Material; Multiple Concrete Duct-Leadman; Curb Asphalt Machine Operator; Ready-Mix Scalemen; Permanent, or Temporary Plant; Laser Beam Operator; Concrete Burning Machine Operators; Underpinning and Shoring of Building; Pump Men

DECISION NO. IL81-2055

POWER EQUIPMENT OPERATORS:
Henry (W½), Rock Island, & Whiteside (W½) Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.80	1.00	.90		.08
CLASS 2	14.80	1.00	.90		.08
CLASS 3	13.40	1.00	.90		.08
CLASS 4	13.40	1.00	.90		.08
CLASS 5	12.35	1.00	.90		.08

Class 1: Cranes; Shovels; Clamshells; Draglines; Backhoes; Derricks; Cableways; Dual Drum Pavers; Concrete Spreaders (behind 2 pavers); Asphalt Spreaders; Asphalt Mixer Plant Engineers; Dipper Dredge Operator; Dipper Dredge Cranemen; Dual Purpose Trucks (Boom or Winch); Leverman or Engine Men (Hydraulic Dredge); Mechanics; Paving Mixers (16-E to 34-E); Paving Mixers with Tower attached (2 operators required); Pile Drivers; Boom Tractors; Stationary, Portable, or Floating Mixing Plants; Trenching Machines; Building Hoists (2-drums); Hot Paint Wrapping Machines; Cleaning and Priming Machines, on basement excavating work; Backfillers (throw bucket); Locomotive Engineers

Class 2: Athey, Barber Greene, Euclid or Haiss Loaders; Asphalt Pug Mills; Firemen and Driers; Concrete Pumps; Concrete Spreaders (behind 1 paver); Bulldozers; End Loaders (other than mentioned above); Fork-lifts; Elevating Graders; Grout Equipment Greasers; LeTourneaupull and similar machines; Power Blades; Power Subgraders (on Forms and similar machines); Push Cats; Tractors pulling Elevating Graders or Power Blades; Tractors with power attachments; Rollers on Asphalt or Blacktop; Single drum Hoists; Jaeger Mix and Place Machines; Pipe Bending Machines; Welding Machines (3 to 4); Fuller Kenyon Cement Pumps or similar machines; Automatic cement and gravel Batch Plants (1 stop set-up)

Class 3: Asphalt Boosters; Firemen and Pump Operators at Asphalt Plants; Compressors (500 cu. ft. and over); Concrete Finishing Machines; Form Graders with Rollers on earth; Mixers (3 bag to 16-E); Power operating Bull Floats; Tractors without power attachment; Dope Pots (agitating motor); Dope Chop Machines; Distributors (Backend); Flex-planes; Boat Operator; Hydrohammers; Power Winch on paving work; Self-propelled earth Rollers or Compactors (other than paving work); Pump Operator (more than 1 well point pump); Portable Crusher Operator

Class 4: Air Compressors (275 C.F.M. or over); Drivers on Truck Cranes; Conveyors; Light Plants; Mixers (1 or 2 bag); Power Batching Machines (Cement Auger or Conveyor); Boiler Engineer or Firemen; Water Pumps; Welding Machines; Mechanical Brooms; Automatic cement and gravel Batch Plants (2 or 3 stop set-up); Small Rubber-tired Tractors

Class 5: Oilers; Mechanic Helpers; Water Pumps (pumping water to Paver); Mechanical Heaters (other than Steam Boiler)

DECISION NO. IL81-2055

POWER EQUIPMENT OPERATORS
Bureau & Henry (E½) Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.92	.75	.80		.05
GROUP 2	15.72	.75	.80		.05
GROUP 3	14.77	.75	.80		.05
GROUP 4	14.50	.75	.80		.05
GROUP 5	13.06	.75	.80		.05

GROUP 1: Cranes; Hydro Crane; Shovels; Crane type Backfiller; Tower Cranes, Mobile & Crawler & Stationary; Derricks & Hoist (3-drum); Dragline; Drott Yumbo & similar Types considered as Cranes; Backhoe; Derrick Boats; Pile Driver & Skid Rigs; Clam Shells; Locomotive Cranes; Road Pavers, Single Drum, Dual Drum & Tri Batcher; Motor Patrols & Power Blades, Dumore, Elevating & Similar types; Mechanics; Central Concrete Mixing Plant Op.; Blacktop Plant Ops. & Plant Engineers; Gradall; Caisson Rigs, requires Oiler; Skimmer Scoop, Koehring Scooper; Dredges (all types); Hoptoe, Crane type (require Oiler); Escalated rate on Crane & Derricks Booms, $.01 per hour, per ft., over 80' incl. jib; All Cherry Pickers; Cherry Pickers (Over 15 ton require Oiler); Work Boat; Ross Carrier; Helicopter; Dozer & Tournadozer

GROUP 2: Asphalt Heater & Planer Combination (used to plane streets); Trench Machines; Pump Crete; Belt Crete; Squeeze Crete; Screw type Pumps & Gypsum; Bulker & Pump; Dinkeys; Tournapulls, all, & similar types; Multiple Unit Earth Movers, $.25 per hour for each scoop over one; Scoops (all sizes); Pushcats; End Loaders (all types); Side Booms; P-H One Pass Soil Cement Machines & similar types; Wheel Tractors (industrial or farm type with Dozer, Hoe, End Loader or other attachments; Backfillers; Asphalt Surfacing Machine; Euclid Loader; Fork Lifts; Formless Finishing Machine; Jeep with Ditching Machine or other attachments; Tune-luger; Rockcrusher; Automatic Cement & Gravel Batching Plants; Mobile Drills (Soil Testing); & Similar types; Pugmill with Pump; Flaherty Spreader & similar types (require Oiler); Heavy Equipment Greaser (Top Greaser on Spread); Power Launches; Boring Machine & Pipe Jacking Machine; C.M.I. & similar types (require Oiler); All (1) & (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-seeder; Boring Machine; Hydro-broom; Starting Engineer on Pipeline; F.W.D. & similar types

GROUP 3: Apsco Spreader or similar types; Tractors (track-type) without Power Units pulling Rollers; Rollers on Asphalt-brick or Macadam; Concrete Breakers; Concrete Spreaders; Center Stripper; Cement Finishing Machines; Vibro Tampers (all similar types) self-propelled; Mechanical Bull Floats; Mixers, over 3 bag to 27E; Winch & Boom Trucks; Tractor, pulling Power Blade or Elevating Grader; Porter Tex Rail; Clary Screed; Mule, pulling Rollers; Pugmill without Pump; Barber Greene or similar Loaders; Track-type Tractors with Power unit attached (minimum); Fireman; Screed Man on Laydown Machine; & Spray Machine on Paving

DECISION NO. IL81-2055

POWER EQUIPMENT OPERATORS (CONT'D):

GROUP 4: Power Subgrader; Oil Distributor; Straight Tractor; Tracair (without attachments); Curb Machines; Paved Ditch Machines; Truck Crane Oiler; & Truck type Hoptoe Oilers

GROUP 5: Herman Nelson Heater, Dravo, Warner, Silent Glo & Similar types: One Engineer will operator 1 - 5 & after 5, two Operators will be required; Self-propelled Concrete Saws; Assistant Heavy Equipment Greaser; Crawler Crane & Skid Rig Oilers; Rollers, 5 tons & under on Earth & Gravel; Form Graders; Pump (1) or (2); Light Plant (1) or (2); Generator (1) or (2); Conveyor (1) or (2); Mixer, 3 bags & under; Bulk Cement Plant; Air Compressor (1) or (2); & Welding Machine (1) or (2)

POWER EQUIPMENT OPERATORS: Carroll, JoDaviess, Lee, Ogle, Stephenson, Whiteside (E½); & Winnebago Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1	$13.60	$1.20	$1.20	.70	.05
Class 2	13.05	1.20	1.20	.70	.05
Class 3	12.30	1.20	1.20	.70	.05
Class 4	11.20	1.20	1.20	.70	.05
Class 5	10.20	1.20	1.20	.70	.05

Class 1: Asphalt Plant; Asphalt Heater and Planer Combination; Asphalt Spreader; Autograde; Belt Loader; Caisson Rigs; Central Redimix Plant; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Linden, Peco and Machines of a like nature; Derricks, traveling; Dredges; Euclid Loader; Elevating type Gradall and Mechanics of a like nature; Derricks; All Derrick Boats; Derricks, traveling; Dredges; Euclid Loader; Elevating type Gradall and Mechanics of a like nature, 1 cu. yd. and over; Mucking Machine, under 1 cu. yd.; Piledrivers and Skid Rig; Pre-stress Machine; Pump Cretes, Dual Ram (requiring frequent lubrication and water); Rock Drill, Crane type; Slip Form Paver; Straddle Buggies; Tractor w/boom; Tractaire w/attachments; Trenching Machine; Underground Boring and/or Mining Machine, under 5 ft.; Wheel Excavator Widener (Apsco)

DECISION NO. IL81-2055

POWER EQUIPMENT OPERATORS (Cont'd)

Class 2: Mechanic-welder; Batch Plant; Bituminous Mixer; Bulldozer; Combination Backhoe Front End Loader Machine; Concrete Breaker of Hydro-hammer; Concrete Grinding Machine; Concrete Mixer or Paver, 7S Series to and including 27 cu. ft.; Concrete Spreader; Concrete Curing Machine; Burlap Machine; Belting Machine and Sealing Machine; Finishing Machine; Concrete Grader; Motor Patrol; Auto Patrol; Form Grader; Pull Grader; Subgrader; Highlift Shovels or Front End Loader; Hydraulic Boom Trucks (all attachments); Locomotives, Dinky; Pump Cretes: Squeeze Cretes, Screw type Pumps; Cypsum Bulker and Pump; Rock Drill (self-propelled); Roto-tiller; Seaman, etc.; Self-propelled Scoops; Tractor drawn, self-propelled Compactor, Spreader, Chipstone, etc.; Scraper; Tank Car Heater; Tractor, push, pulling Sheeps Foot, disc.; Compactor, etc.; Tug Boats

Class 3: Boilers; Boiler and Throttle Valve; Brooms, all power propelled; Cement Supply Tender; Compressor Throttle Valve; Concrete Mixer (2 bags and over); Conveyor, portable; Fireman on Boiler; Forklift Trucks; Greaser Engineer; Grouting Machine Hoists; Automatic Hoists; All Elevator Hoists; Tugger, single drum; Jeep Diggers; Pipe Power Saw, Concrete; Power-driven Pug Mills; Rollers, all; Steam Generators; Stone Crushers; Stump Machine; Winch Truck with "A" Frame; Work Boats; Tamper; Form Motor driven

Class 4: Air Compressors, all; Generators; Heaters; Mechanical Light Plants, all (1 through 5); Pumps, all; Pumps, well points; Tractaire; Welding Machines (2 through 6)

Class 5: Oilers

DECISION NO. IL81-2055

ILL-82-TD-1-2-3

TRUCK DRIVERS: Bureau, Carroll, (Exclu. N. or Rte #72 & E. of Rte #78), Henry, JoDaviess (W. of Rte #78 inclu. Stockton), Lee (W. of Rte #51), Ogle (W. of Rte #51), Rock Island, Whiteside, & Williamson Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$13.30	$1.00	$46.00a		
GROUP II	13.70	1.00	46.00a		
GROUP III	13.90	1.00	46.00a		
GROUP IV	14.15	1.00	46.00a		

GROUP I: Drivers on 2 Axles hauling less than 9 tons; Air Compressor & Welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; & Truck Driver Tenders

GROUP II: 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

GROUP III: 2, 3 or 4 Axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Working Foreman; & Water Pulls

GROUP IV: Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

FOOTNOTE:
a. Per Week Per Employee

DECISION NO. IL81-2055

DREDGING: Bureau & Henry (E ½) Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.07	.45	.80		.05
GROUP 2	12.87	.45	.80		.05
GROUP 3	12.495	.45	.80		.05
GROUP 4	12.22	.45	.80		.05
GROUP 5	11.61	.45	.80		.05

GROUP 1 - Operators on Hydraulic Dipper or Clamshell Dredges, Engineers & Repairmen, Operators on Work Boats

GROUP 2 - Power Winches 1-2-3 Drums

GROUP 3 - Security Engineer

GROUP 4 - Cranemen on Dipper Dredges, Operators on Launches or Power Boats

GROUP 5 - Firemen & Oilers

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: See below
DECISION NUMBER- KY81-1281 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY80-1107, dated October 17, 1980 in 45 FR 69145
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS

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, Russel, Taylor, Wayne, Whitley & Wolfe	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$10.40	.45	.45	.25	
Carpenters	10.60	.65	.55	.35	
Cement Masons	10.45	.65	.55	.35	
Electricians	15.66	.45	3% +.50		½ of 1% .10
Ironworkers	13.45	1.00	2.85		
Laborers:					
Asphalt lute & rakeman & side rail setter	9.05	.65	.55	.35	
Drill operator of percussion type drills which are both powered & propelled by an independent air supply	9.95	.65	.55	.35	
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	9.00	.65	.55	.35	
Gunnite operator & nozzleman	7.05	.65	.55	.35	
Hand blade operator, deck hand or scow man	6.80	.65	.55	.35	

KY81-1281 cont.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers cont.					
Batch Truck Dumper	$8.90	.65	.55	.35	
Caisson Worker	8.05	.65	.55	.35	
General laborer & flagmen	8.65	.65	.55	.35	
Tunnel Miner, blaster & driller (Free Air)	9.60	.65	.55	.35	
Tunnel Mucker (Free Air)	9.25	.65	.55	.35	
Tunnel Laborer (Free Air)	9.00	.65	.55	.35	
Powderman	10.25	.65	.55	.35	
Painters:					
Guard Rail	10.60	.45	.45	.25	
Structural	11.60	.45	.45	.25	
Piledrivermen	10.25	.65	.55	.35	
Plumbers & Pipefitters	15.63	.70	1.25		.05
Sheet Metal Workers	10.45	.45	.45	.25	
Truck Drivers:					
Truck tender	6.80	.65	.55	.35	
Driver - winch truck & A-frame when used in transporting materials	6.90	.65	.55	.35	
Driver - distributor, dump truck tandem axle, semi-trailer or pole trailer	9.10	.65	.55	.35	
Driver - mixer trucks (all types)	9.15	.65	.55	.35	
Truck mechanic	9.20	.65	.55	.35	
Driver - 3 tons & under, tire changer & mechanic tender	9.23	.65	.55	.35	
Driver - pavement breakers	9.25	.65	.55	.35	
Driver - over 3 tons	9.44	.65	.55	.35	
Driver - Euclid & other earth moving equipment & low boy	10.01	.65	.55	.35	
Greaser on grease facilities	10.10	.65	.55	.35	
Welders - Rate for craft					

KY81-1281 cont.

POWER EQUIPMENT OPERATORS Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$13.22	.65	1.20		.08
Class B	10.39	.65	1.20		.08
Class C	9.59	.65	1.20		.08
Class D	13.72	.65	1.20		.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 recieve 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 & trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader & 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 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & 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 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).

Class D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib

KY81-1281 cont.

POWER EQUIPMENT OPERATORS Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$11.72	.65	1.20		.08
Class B	9.30	.65	1.20		.08
Class C	9.68	.65	1.20		.08
Class D	9.04	.65	1.20		.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, derrick boat, ditching & trenching machine, dragline, elevator (regardless of ownership when used for hoisting any building material), elevating grader & 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" & over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader, tailboom & 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 & road widening trencher, joint sealing machine, rotary drill (under 5"), throttlevalve man tugger, well points, flexplane, fireman & hoist (one drum)

Class C - Greaser on grease facilities servicing heavy equipment

Class D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth). tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand oiler, & hydraulic post driver

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: See below
DECISION NUMBER: KY81-1282
DATE: DATE OF PUBLICATION
Supersedes Decision Number KY80-1109 dated October 3, 1980 in 45 FR 65883
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS
Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, LaRue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington & Woodford

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$11.44	.50	.40		.01
Carpenters					
Heavy	12.01	.80	.80		.05
Highway	11.11	.80	.80		.05
Cement Masons	10.94	1.00	.70		.08
Electricians	16.14	1.00	3% +1.61		½ of 1%
Ironworkers	13.45	1.00	2.85		.10
Millwrights					
Heavy	12.76	.80	.80		.05
Highway	11.86	.80	.80		.05
Painters					
Brush	11.07	.55	.60		.03
Spray	11.52	.55	.60		.03
Bridge work - work on bridges over navigable water shall carry a premium of $2.00 per hour added to the base rate					
Piledrivermen					
Heavy	12.26	.80	.80		.05
Highway	11.36	.80	.80		.05
Pipefitters	12.77	.75	1.40		.10
Plumbers	13.28	.80	1.24		.15
Welders - Rate for craft					

DECISION NO. KY81-1282 cont.

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Tender	$10.43	*a	*b		
Mobile batch truck tender	10.43	*a	*b		
Greaser, tire changer, & mechanic tender	10.54	*a	*b		
Driver - Single axle dump, & flat bed trucks, semi-trailer or pole trailer when used to pull building materials & equipment, dump truck, tandem axle, distributor & truck mechanic	10.72	*a	*b		
Driver - Mixer truck (all types)	10.75	*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	10.82	*a	*b		

FOOTNOTES:
a. 28.50 for health & Welfare per week
b. 27.00 for Pension 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 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))

DECISION NO. KY81-1282 cont.

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.72	.70	.70		
Group 2	9.97	.70	.70		
Group 3	10.02	.70	.70		
Group 4	10.62	.70	.70		

Group 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping & 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 helper, & hand digging & 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 wheelbarrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & mortar mixers, pipe layers, joint makers, batter board men (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, operator & deckhand scow man, burner & welder

Group 3 - Powderman blasters, side rail setters (including rail paved ditches), tunnel laborers (free air), gunnite laborers & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tract driller (all types), grout pump operator

Group 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), caisson workers (free air)

KY81-1282 cont.

POWER EQUIPMENT OPERATORS Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$13.22	.65	1.20		.08
Class B	10.39	.65	1.20		.08
Class C	9.59	.65	1.20		.08
Class D	13.72	.65	1.20		.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 recieve 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 & trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader & 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, pumperete, 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 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane fireman, boom type tamping machine, truck crane oiler, greaser on grease facilties servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & 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 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).

Class D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib

KY81-1282 cont.

POWER EQUIPMENT OPERATORS Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$11.72	.65	1.20		.08
Class B	9.30	.65	1.20		.08
Class C	9.68	.65	1.20		.08
Class D	9.04	.65	1.20		.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, derrick boat, ditching & trenching machine, dragline, elevator (regardless of ownership when used for hoisting any building material), elevating grader & 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" & over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader, tailboom & 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 & road widening trencher, joint sealing machine, rotary drill (under 5"), throttlevalve man tugger, well points, flexplane, fireman & hoist (one drum)

Class C - Greaser on grease facilities servicing heavy equipment

Class D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand oiler, & hydraulic post driver

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: MAINE STATEWIDE
DECISION NO.: ME81-3057 DATE: DATE OF PUBLICATION
Supersedeas Decision No. ME81-3008, dated January 16, 1981, in 46 FR 4261
DESCRIPTION OF WORK: Highway Construction Projects excluding major bridges (for example, bascule, suspension and spandrel arch bridges; those bridging waters presently navigable or to be made navigable; and those involving marine construction in any degree); tunnels, building structures in rest area projects and railroad construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Androscoggin County	5.66				
Aroostook County	5.51				
Cumberland County	5.26				
Franklin County	5.67				
Hancock County	6.00				
Kennebec County	5.66				
Knox County	5.21				
Lincoln County	5.59				
Oxford County	5.64				
Penobscot County	5.50				
Piscataquis County	5.55				
Sagadahoc County	5.39				
Somerset County	5.43				
Waldo County	5.31				
Washington County	5.00				
York County	6.50				
CEMENT MASONS:					
Androscoggin County	4.98				
Aroostook County	5.08				
Cumberland County	9.10				
Franklin County	6.03				
Kennebec County	6.35				
Lincoln County	6.21				
York County	6.50				
CEMENT FINISHERS:					
Aroostook County	5.71				
Kennebec County	6.35				
ELECTRICIANS:					
Aroostook County	8.35				
Cumberland, Kennebec, Lincoln, Sagadahoc and Counties	7.58				
Penobscot County	7.52				
IRONWORKERS:					
Cumberland County	5.89				

DECISION NO. ME81-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
REINFORCING:					
Aroostook County	5.00				
Franklin County	5.75				
Kennebec County	5.75				
Lincoln County	5.16				
Penobscot County	4.18				
Piscataquis County	5.16				
Sagadahoc County	5.46				
York County	4.18				
STRUCTURAL & ORNAMENTAL:					
Aroostook County	5.64				
Franklin County	6.31				
Lincoln County	5.38				
Sagadahoc County	6.25				
LABORERS:					
ASPHALT RAKERS/WHEELMAN:					
Androscoggin County	5.96				
Aroostook County	5.51				
Cumberland County	5.84				
Franklin County	5.72				
Hancock County	5.04				
Kennebec County	5.13				
Knox County	5.17				
Lincoln County	5.39				
Oxford County	5.10				
Penobscot County	5.50				
Piscataquis County	5.50				
Sagadahoc County	5.13				
Somerset County	5.54				
Washington County	4.73				
York County	6.25				
POWER TOOL OPERATOR:					
Aroostook & Piscataquis Cos.	4.50				

DECISION NO. ME81-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd):					
BLASTER, POWDERMEN:					
Aroostook County	5.33				
CHAIN SAW OPERATORS:					
Aroostook County	5.00				
Hancock, Penobscot & York Cos.	4.00				
Kennebec County	4.50				
Penobscot County	4.25				
Somerset County	4.56				
DRILLERS, WAGON DRILL:					
Aroostook County	5.75				
Lincoln & Penobscot County	5.50				
LABORERS:					
Androscoggin County	4.75				
Aroostook County	4.39				
Cumberland County	4.51				
Franklin County	4.18				
Hancock County	3.91				
Kennebec County	4.18				
Knox County	3.87				
Lincoln County	4.21				
Oxford County	4.53				
Penobscot County	4.10				
Piscataquis County	4.33				
Sagadahoc County	4.00				
Somerset County	3.37				
Waldo County	3.62				
Washington County	4.27				
York County	4.61				
TRUCK DRIVERS:					
2 AXLE:					
Cumberland County	4.68				
Penobscot County	3.60				
Oxford County	4.64				
Sagadahoc County	4.15				
Somerset County	4.17				

DECISION NO. ME81-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Cont'd):					
3 AXLE:					
Cumberland County	5.15				
Penobscot County	4.10				
Oxford County	4.61				
Sagadahoc County	4.39				
Somerset County	4.10				
2 & 3 AXLE:					
Androscoggin County	5.25				
Aroostook County	4.83				
Franklin County	4.48				
Hancock County	4.69				
Kennebec County	4.56				
Knox County	4.44				
Lincoln County	4.57				
Piscataquis County	4.93				
Waldo County	4.12				
Washington County	4.22				
York County	4.84				
TRAILER DRIVER:					
York County	6.00				
SPECIAL EARTH MOVING EQUIPMENT:					
Androscoggin County	4.75				
Aroostook County	6.25				
Hancock County	6.00				
Lincoln County	6.00				
York County	7.00				
POWER EQUIPMENT OPERATORS:					
ASPHALT PAVERS:					
Androscoggin County	5.93				
Aroostook County	7.12				
Cumberland County	6.60				
Franklin County	5.74				
Hancock County	7.12				
Kennebec County	5.40				
Knox County	6.53				
Lincoln County	5.38				
Oxford County	5.30				
Penobscot County	7.12				
Piscataquis County	6.90				
Sagadahoc County	5.49				
Somerset County	6.54				
Waldo County	8.45				
Washington County	5.30				
York County	6.25				

DECISION NO. ME81-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
BACKHOE:					
Androscoggin County	7.96				
Aroostook County	7.00				
Cumberland County	7.33				
Franklin County	7.33				
Hancock County	6.31				
Kennebec County	7.01				
Knox County	7.62				
Lincoln County	5.59				
Oxford County	7.39				
Penobscot County	6.74				
Piscataquis County	7.98				
Sagadahoc County	6.07				
Somerset County	7.07				
Waldo County	8.45				
Washington County	7.02				
York County	9.00				
BULLDOZER:					
Androscoggin County	7.45				
Aroostook County	7.00				
Cumberland County	8.45				
Franklin County	6.69				
Hancock County	6.66				
Kennebec County	6.76				
Knox County	6.60				
Lincoln County	6.48				
Oxford County	6.70				
Penobscot County	6.40				
Piscataquis County	6.40				
Sagadahoc County	6.07				
Somerset County	8.45				
Waldo County	7.38				
Washington County	6.50				
York County	9.00				
CRANE/DRAGLINE:					
Androscoggin County	5.75				
Aroostook County	5.94				
Cumberland County	6.25				
Franklin County	8.19				
Hancock County	7.50				
Kennebec County	8.00				

DECISION NO. ME81-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
CRANE/DRAGLINE (Cont'd):					
Lincoln County	7.25				
Oxford County	6.75				
Penobscot County	6.43				
Piscataquis County	6.80				
Sagadahoc County	7.25				
Washington County	6.00				
York County	11.09				
CRUSHER SCREENING PLANT OPERATOR:					
Androscoggin County	5.35				
Aroostook County	5.33				
Cumberland County	8.00				
Franklin County	5.44				
Hancock County	5.21				
Sagadahoc County	7.25				
Somerst County	6.45				
Washington County	5.40				
FRONT END LOADERS:					
Androscoggin County	7.40				
Aroostook County	6.36				
Cumberland County	8.45				
Franklin County	6.50				
Hancock County	6.67				
Kennebec County	6.02				
Knox County	5.25				
Lincoln County	5.25				
Oxford County	6.00				
Penobscot County	6.40				
Piscataquis County	6.17				
Sagadahoc County	5.91				
Somerset County	6.61				
Waldo County	8.45				
Washington County	5.50				
York County	8.29				

DECISION NO. ME81-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
GRADALL:					
Androscoggin County	6.30				
Aroostook County	7.50				
Cumberland County	8.45				
Franklin & Kennebec Cos.	8.70				
Hancock County	5.81				
Knox County	8.34				
Lincoln County	8.15				
Penobscot County	8.70				
Piscataquis County	7.12				
Sagadahoc County	6.81				
Washington County	7.00				
York County	8.35				
GRADER:					
Androscoggin County	8.25				
Aroostook County	7.60				
Cumberland County	8.45				
Franklin County	6.00				
Hancock County	6.61				
Kennebec County	6.00				
Knox County	8.45				
Lincoln County	6.73				
Oxford County	7.71				
Penobscot County	8.45				
Piscataquis County	6.71				
Sagadahoc County	6.67				
Somerset County	7.57				
Waldo County	8.45				
Washington County	8.45				
York County	9.00				
HYDROSEEDER:					
Aroostook County	5.25				
Cumberland County	5.25				
Franklin County	5.25				
Hancock County	4.50				
Kennebec County	4.75				
Knox County	5.13				
Lincoln County	4.50				
Somerset County	4.25				
Waldo County	4.77				
Washington County	4.38				
York County	5.25				

DECISION NO. ME81-3057

POWER EQUIPMENT OPERATORS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MECHANIC:					
Androscoggin County	5.63				
Aroostook County	5.50				
Franklin County	7.09				
Hancock County	4.50				
Kennebec County	7.25				
Knox County	8.00				
Lincoln County	6.87				
Oxford County	4.75				
Penobscot County	6.84				
Piscataquis County	6.04				
Sagadahoc County	5.72				
Somerset County	6.45				
Waldo County	8.00				
Washington County	5.38				
York County	9.00				
MULCHER:					
Aroostook County	5.00				
Franklin County	4.50				
Hancock County	4.50				
Kennebec County	5.25				
Knox and Lincoln County	4.50				
Somerset County	4.50				
Waldo County	4.88				
ROLLER, EMBANKMENT:					
Aroostook County	7.12				
Cumberland County	5.40				
Hancock County	5.00				
Oxford County	5.20				
Washington County	4.82				
York County	4.64				
ROLLER, PAVEMENT:					
Androscoggin County	5.45				
Aroostook County	7.12				
Cumberland County	6.25				
Franklin County	5.76				
Hancock County	7.12				
Kennebec County	5.16				

DECISION NO. ME81-3057

POWER EQUIPMENT OPERATORS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROLLER, PAVEMENT Cont'd):					
Knox County	8.45				
Lincoln County	4.93				
Oxford County	6.25				
Penobscot County	6.62				
Piscataquis County	7.13				
Sagadahoc County	4.45				
Somerset County	5.90				
Washington County	5.50				
Waldo County	8.45				
York County	5.77				
SCRAPERS:					
Aroostook County	6.76				
Hancock County	4.92				
SHOVEL:					
Hancock County	6.00				
Waldo County	6.00				

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: MASSACHUSETTS COUNTY: WORCESTER
DECISION NUMBER: MA81-3050 DATE: DATE OF PUBLICATION
Supersedes Decision Number MA80-2045 dated July 7, 1980 in FR 45794
DESCRIPTION OF WORK: Building Construction (including Residential) heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	14.08	1.17	.80		.01
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, PLASTERERS, AND STONEMASONS:					
Warren	12.40	1.13	1.30		.06
Hopedale, Milford, and Southboro	11.60	1.20	1.00		.09
Residential and veneer plasterers	9.28	1.20	1.00		.09
Ashburnham, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Princeton, Royalston Sterling, Templeton, Westminister and Winchendon	12.20	.90	.70		.09
Residential and Veneer plasterers	9.76	.90	.70		.09
Remainder of County	11.50	.95	1.35		.02
CARPENTERS, SOFT FLOOR LAYERS:					
Hardwick, Warren, W. Brookfield	12.15	.60	1.00		.07
Remainder of County	12.50	.75	1.00		.07
ELECTRICIANS:					
Warren, W. Warren	13.28	.85	3%+.40		.03
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Phillipston, Westminister, and Winchendon	13.20	.75	3%+1.35		.02
Remainder of County	14.28	8%	3%+.94		.01
ELEVATOR CONSTRUCTORS	12.21	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	8.55	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' PROBATIONARY HELPERS	6.105				
GLAZIERS:					
Warren, W. Warren	11.30	.47	.45		.005
Remainder of County	13.70	.92	1.19		.03
IRONWORKERS	13.25	1.15	2.05		.10

DECISION NO. MA81-3050

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING):					
Laborers, Carpenter tenders and wrecking laborers	9.55	.75	1.10		.10
Jackhammer operators, Pavement breakers, Asphalt rakers, Carbide core drilling machine, Chain saw operators, Pipelayers Barco type jumping tampers Laser beam, Concrete pump, Mason tenders, Mortar mixers, Ride-on motorized buggies, and fence and beam rail erectors	9.80	.75	1.10		.10
Air track, block pavers, Rammers and Curb setters	10.50	.75	1.10		.10
Blasterers and powdermen	10.55	.75	1.10		.10
Pre-Cast Floor and Roof Plank Erectors	10.05	.75	1.10		.10
LATHERS:					
Sturbridge and Warren	10.85		.25		.01
Blackstone and Luneburg	11.90	1.00	.55		.03
Remainder of County	12.50	.75	1.00		.07
LINE CONSTRUCTION:					
Line	13.50	.70	3%+.50	c	3/8 of 1%
Equipment Operator	12.06	.70	3%+.50	c	3/8 of 1%
Driver groundman	9.64	.70	3%+.50	c	3/8 of 1%
Groundman	8.82	.70	3%+.50	c	3/8 of 1%
MARBLE, TILE AND TERRAZZO WORKERS:					
Auburn, Barre, Blackstone, Berlin, Bolton, Boylston, The Brookfields, Charlton, Clinton, Dudley, Grafton, Hardwich, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, Westboro, West Boylston, Worcester	11.50	.95	1.35		.02

DECISION NO. MA81-3050

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE, AND TERRAZZO WORKERS: (CONT'D)					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominister, Luneburg, Princeton, Sterling, Westminister	11.40	.85	1.50		
MARBLE, TILE, AND TERRAZZO FINISHER	10.34	.90	.75		
PAINTERS:					
Warren, West Warren:					
Brush and Tapers	10.82	.92	.93		.08
Spray and Sandblasting	14.69	.92	.93		.08
Swing and chair work and steel riding under 40 feet	11.01	.92	.93		.08
Swing and chair work and steel riding 40 feet and over	11.32	.92	.93		.08
Holedale, Mendon, Milford, Southboro, Upton, and Westboro:					
Brush	11.85	.85	.80		.03
Spray, sandblast, and epoxy	12.85	.85	.80		.03
Steel	13.10	.85	.80		.03
Repaint (Brush)	11.30	.85	.80		.03
Reminder of County:					
Brush	13.43	.90	1.65		.04
Steel	15.55	.90	1.65		.04
Sandblasting; Spray	14.43	.90	1.65		.04
Repaint	11.42	.90	1.65		.04
Residential	10.07	.90	1.65		.04
SIGN PAINTERS, ERECTORS & FABRICATORS	10.25	.84	.50	.82	.04
PILEDRIVERMEN	13.15	1.00	1.00		
PIPEFITTERS:					
Holedale and Southboro	15.07	1.30	1.08		.05
Remainder of County	12.38	.80	1.00		.05
Pondville	15.61	.94	1.45		.07

DECISION NO. MA81-3050

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Holedale and Southboro Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leoinster, Lunenburg, Petersham, Phillipston Royalston, Templeton, Westminister and Winchendon	15.07	1.30	1.08		.05
Remainder of County	11.71	.90	.90	4%	.05
ROOFERS:	13.58	1.15	.90		.05
New Construction	12.00	1.12	.98		.02
Reroof	10.25	1.12	.98		.02
SHEET METAL WORKERS	12.25	1.09	1.46		
SRINKLER FITTERS	15.29	.95	1.40		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Holidays: A through G
c. Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

DECISION NO. MA81-3050	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY & HIGHWAY)					
CLASS I	10.80	.75	1.10		.05
CLASS II	11.05	.75	1.10		.05
CLASS III	11.55	.75	1.10		.05
CLASS IV	11.80	.75	1.10		.05

CLASSIFICATIONS

CLASS I - Carpenter tenders, Cement finisher tenders, Laborers, Wrecking laborers

CLASS II - Asphalt rakers, Fence and guard rail erectors, Laser beam operator, Mason tender, Pipelayer, Pneumatic drill operator, Pneumatic tool operator, Wagon drill operator

CLASS III - Air track operator, Block pavers, Rammers Curb Setters

CLASS IV - Blasters, Powdermen

DECISION NO. MA81-3050	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E. Brookfield, N. Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W. Brookfield, and Warren					
POWER EQUIPMENT OPERATORS:					
CLASS I	12.73	.95	1.15	a	.10
CLASS II	12.53	.95	1.15	a	.10
CLASS III	12.33	.95	1.15	a	.10
CLASS IIIA	11.96	.95	1.15	a	.10
CLASS IV	10.77	.95	1.15	a	.10
CLASS V	10.17	.95	1.15	a	.10
CLASS VI	9.19	.95	1.15	a	.10
CLASS VII	13.48	.95	1.15	a	.10
CLASS VIII	10.37	.95	1.15	a	.10
CLASS IX	13.23	.95	1.15	a	.10
CLASS X	13.23	.95	1.15	a	.10
CLASS XI	13.73	.95	1.15	a	.10

CLASSIFICATIONS

CLASS I - Shovels, Cranes (including all tower, climbing and bridge cranes, as used in Building Construction as defined in Scope of Employment), Hydraulic Cranes--10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, all three drum Hoisting and Trenching Machines, Belt-type Loaders, Foreman Mechanics, Front End Loaders--5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.), Combination Backhoe-Loader--3/4 yard or over, Jet Engine Dryer, Tree Shredder, Post Hole Digger, Post Hole Hammer, Post Extractor, Truck Mounted Concrete Pump with boom, Roto-Mill

CLASS II - Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), rock and earth boring machines (excluding McCarthy and similar drills, Graders, Front End Loaders--4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 ft. and over, Scrapers--21 yards and over (struck load), Sonic Hammer Console, Road Planer, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

DECISION NO. MA81-3050

CLASSIFICATIONS CONT'D

CLASS III - Combination Backhoe-Loader--up to 3/4 yard boe, Bulldozers, Push Cats, Scrapers--up to 21 yards (struck load) self-propelled or tractor drawn, Tireman, Front End Loaders--up to 4 yards, Asphalt Paver, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point Operators (including installing), Electric pumps used in Well Point System, Pumps--12 inches and over(total discharge), Compressor (one or two) 900 cu. ft. and over, Engineers in charge of Powered Grease Truck, all automatic elevators (permanent or temporary) operated manually or remote control (not to be confused with elevators operating from conventional hoist--1, 2 or 3 Drum), Grout pumps, Boom Truck, Hydraulic Cranes--under 10 ton.

CLASS IIIA - Asphalt Rollers, Self-powered Rollers and Compactors, Tractor without blade drawing sheepsfoot roller, rubber tire roller, vibratory roller, or other type of compactors including machines for pulverizing and aerating soil.

CLASS IV - Single Drum Hoist, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading), Bulk Cement Plants, Self-propelled material spreaders, A-Frame Trucks, Fork Lifts--up to 15 ft., 3 or more 10KW Light Plants, 30 KW or more Generators.

CLASS V - Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps--4 inches to 12 inches (total discharge).

CLASS VI - Compressors (up to 315 cu. ft.), small mixers, pumps (up to 4 inches), power heaters, welding machines, (when 3 or more heaters or welding machines are used on one job, classification 4 rate will be paid), Conveyors, Oiler, helpers on grease trucks with hand greasing equipment.

CLASS VII - Truck Crane Crews

CLASS VIII - Oiler

CLASS IX - Master Mechanic

CLASS X - Boom lengths over 184 feet (including jib)

CLASS XI - Boom lengths over 225 ft (including jib)

FOOTNOTE:

a. PAID HOLIDAYS: New Year's Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day.

DECISION NO. MA81-3050

HEAVY AND HIGHWAY CONSTRUCTION: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E. Brookfield, N. Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W. Brookfield, and Warren	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	12.73	.95	1.15	a	.10
CLASS II	12.53	.95	1.15	a	.10
CLASS III	12.33	.95	1.15	a	.10
CLASS IIIA	11.96	.95	1.15	a	.10
CLASS IV	10.77	.95	1.15	a	.10
CLASS V	10.17	.95	1.15	a	.10
CLASS VI	9.19	.95	1.15	a	.10
CLASS VII	13.48	.95	1.15	a	.10
CLASS VIII	10.37	.95	1.15	a	.10
CLASS IX	13.23	.95	1.15	a	.10
CLASS X	13.23	.95	1.15	a	.10
CLASS XI	13.73	.95	1.15	a	.10

CLASSIFICATIONS

CLASS I - Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader--5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes --10 tons and over Dual Pavers, Automatic Grader-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi-automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine, Combination Back Hoeloader--3/4 yard hoe or over, Jet Engine Dryer, Tree Shredder, Post Hole Digger, Post Hole Hammer, Post Extractor, Truck Mounted Concrete Pumps with boom, Roto-Mill.

CLASS II - Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders--4 yards to 5½ yards, Scraper--21 yards and over (struck load), Forklifts--7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console, Road Planer, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers.

DECISION NO. MA81-3050

CLASSIFICATIONS CONT'D

CLASS III - Bulldozer, Push Cats, Scrapers--up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders--up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in well point system, Tireman, Pumps--16 inches or over total discharge, compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Tunnel Locomotives and Dinkeys, Grout pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Trucks, self-propelled Hydraulic Cranes--up to 10 ton, Combination Back Hoe-Loader--up to 3/4 yard hoe.
CLASS IIIA - Asphalt Rollers, Self-Powered Rollers and Compactors, Tractor without blade drawing sheeps foot roller, Rubber tire roller, vibratory roller, or other type of compactors including machines for pulverizing and aerating soil.
CLASS IV - Hoists, Conveyors, Power Rollers & Compactors, Tractor without blade drawing sheeps foot roller, Rubber tire roller, vibratory roller, or other type of compactors including machines for pulverizing and aerating soil.
CLASS V - Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps--4" to 16" total discharge.
CLASS VI - Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck Helper on Powered Grease Truck, Power Heaters, Welding Machines (when 3 or more welding machines are used, Classification 4 rate shall be paid), A-Frame Trucks, Forklifts--up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Power Safety Boat.
CLASS VII - Track Crane Crews
CLASS VIII - Oiler
CLASS IX - Master Mechanic
CLASS X - Boom lengths over 184 feet (including jib)
CLASS XI - Boom lengths over 225 feet (including jib)

FOOTNOTE:
a. PAID HOLIDAYS: New Year's Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day.

DECISION NO. MA81-3050

BUILDING CONSTRUCTION Remainder of County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	15.26	1.18	1.15	a	.08
Hourly premium for boom lengths including jib:					
Over 150 feet + .55					
Over 185 feet + .99					
Over 210 feet + 1.37					
Over 250 feet + 2.08					
Over 295 feet + 2.90					
CLASS II	15.14	1.18	1.15	a	.08
CLASS III	12.81	1.18	1.15	a	.08
CLASS IV	13.94	1.18	1.15	a	.08
CLASS V	11.38	1.18	1.15	a	.08
CLASS VI	12.06	1.18	1.15	a	.08

CLASSIFICATIONS

CLASS I - Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site, crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150' including jib additional $.50 per hour; Boom over 185' including jib - additional $.90 per hour; Boom 210' including jib-additional $1.25 per hour; Boom over 250' including jib - additional $1.90 per hour Boom over 295' including jib - additional $2.65 per hour
CLASS II - Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III - Pumps (1-3 grouped), compressors, welding machines (1-3 grouped) generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

DECISION NO. MA81-3050

CLASSIFICATIONS CONT'D

CLASS IV - Assistant engineers (firemen)
CLASS V - Assistant engineers (other than truck cranes and gradalls)
CLASS VI - Assistant engineers (on truck cranes and gradalls)

FOOTNOTES:
a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appe. Tr.
HEAVY AND HIGHWAY CONSTRUCTION:					
Remainder of County					
POWER EQUIPMENT OPERATORS:					
CLASS I	15.26	1.18	1.15	a	.08
Hourly premium for boom lengths including jib:					
Over 150 feet +	.55				
Over 185 feet +	.99				
Over 210 feet +	1.37				
Over 250 feet +	2.08				
Over 295 feet +	2.90				
CLASS II	15.14	1.18	1.15	a	.08
CLASS III	12.81	1.18	1.15	a	.08
CLASS IV	13.94	1.18	1.15	a	.08
CLASS V	11.38	1.18	1.15	a	.08
CLASS VI	12.06	1.18	1.15	a	.08

DECISION NO. MA81-3050

CLASSIFICATIONS

CLASS I - Power shovels, cranes, truck cranes, derricks, pile driver, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways fork lifts, cherry pickers, boring machines, rotary drillers, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on site, crusher plant on job site, paving concrete mixers, timber jacks
CLASS II - Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers
CLASS III - Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)
CLASS IV - Assistant engineers (firemen)
CLASS V - Assistant engineers (other than truck cranes and gradalls)
CLASS VI - Assistant engineers (on truck cranes and gradalls)

FOOTNOTES:

a. Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA81-3050

BUILDING, HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.56	1.10	1.20	a+b	
CLASS II	10.73	1.10	1.20	a+b	
CLASS III	10.80	1.10	1.20	a+b	
CLASS IV	10.92	1.10	1.20	a+b	
CLASS V	11.02	1.10	1.20	a+b	
CLASS VI	11.31	1.10	1.20	a+b	
CLASS VII	11.60	1.10	1.20	a+b	

CLASSIFICATIONS

CLASS I - Station Wagons, Panel Trucks and Pickup Trucks

CLASS II - Two axle Equipment; Helpers on Low Bed When Assigned at the Discretion of the Employer, Warehousemen, Forklift Operators

CLASS III - Three Axle Equipment and Tiremen

CLASS IV - Four and Five Axle Equipment

CLASS V - Specialized Earth Moving Equipment over 35 Tons

CLASS VII - Trailers for Earth Moving Equipment (Double Hookup)

FOOTNOTES:

a. Paid Holidays: New Year's Day, Washington's Birthday, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day

b. Paid Vacation: 4 months to 1 year - ½ day's pay per month; 1-5 years - 1 week; 5-10 years - 2 weeks; 10 years or more - 3 weeks. Employee must have received pay for 120 days during last year of employment.

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: Clinton & Eaton
DECISION NO.: MI81-2057 DATE: Date of Publication
Supersedes Decision No. MI79-2057 dated June 15, 1979 in 44 FR 34750
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$13.70		1.10		.01
CARPENTERS	9.91				
CEMENT MASONS	9.00				
DRYWALL HANGERS	9.00				
DRYWALL FINISHERS/TAPERS	9.00	.61			
ELECTRICIANS	10.10				
INSULATORS	7.75				
LABORERS:					
Common	7.48				
Mason Tenders	8.40				
Landscape Laborers	3.75				
PAINTERS	8.90				
PLASTERERS	9.55				
PLUMBERS	9.12				
ROOFERS	8.00				
SHEET METAL WORKERS	9.21				
SOFT FLOOR LAYERS	7.50				
TRUCK DRIVERS	10.16	a39.50	a39.50		
POWER EQUIPMENT OPERATORS:					
Backhoe	12.88	1.05	1.75		.10
Bulldozer	12.88	1.05	1.75		.10
Grader	12.75	1.05	1.75		.10
Paver	12.75	1.05	1.75		.10
Roller	12.75	1.05	1.75		.10
WELDER - Rate for Craft					

FOOTNOTE:
a - Per Week, Per Employee

Unlisted classifications nedded for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Ingham
DECISION NO.: MI81-2058 DATE: Date of Publication
Supersedes Decision No. MI79-2057 dated June 15, 1979 in 44 FR 34750
DESCRIPTION OF WORK: Residential Constuction Projects consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.58				
CARPENTERS	11.81	.75	.90		.05
CEMENT MASONS	11.33				
DRYWALL HANGERS	10.81	.60	.80		.05
DRYWALL FINISHERS/TAPERS	12.75	.55	.40		.01
ELECTRICIANS	10.28				
INSULATORS	14.81	.75	.90		.05
LABORERS:					
General	7.88				
Landscape Laborers	4.20				
PAINTERS	11.44	.65	.40		.0025
PLUMBERS	11.37				
ROOFERS	8.40				
SOFT FLOOR LAYERS	9.80				
TILE SETTERS	12.05				
TRUCK DRIVERS	10.16	a39.50	a39.50		
POWER EQUIPMENT OPERATORS:					
Backhoe	11.04				
Bulldozer	11.58				
Crane	11.48				
Front End Loader	12.92			1.51	
Paver	11.38	1.05	1.75		.10
Roller	11.38	1.05	1.75		.10
Scraper	10.00				
WELDERS - Rate for Craft					

FOOTNOTE:
a - Per Week, Per Employee

Unlisted classifications nedded for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: NEBRASKA COUNTIES: Douglas, Cass, Otoe and Sarpy
DECISION NUMBER: NE81-4068 DATE: Date of Publication
Supersedeas Decision No. NE81-4014 dated March 13, 1981 in 46 FR 16819
DESCRIPTION OF WORK: Building projects, including 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.
ASBESTOS WORKERS	$16.62	1.00	1.00		.06
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS, Stonemasons	14.24	.85	.80		.05
CARPENTERS					
Carpenters	13.82	1.10	.70		.05
Piledrivermen, sawmen & welders	13.955	1.10	.70		.05
CEMENT MASONS	13.85	.85	1.00		
ELECTRICIANS - Douglas, Sarpy & Cass Cos.	15.14	.90	3%+1.75		½%
Residential (not to exceed 3 stories)	10.88	.90	3%		½%
ELECTRICIANS					
Otoe County	13.63	.75	3%+1.00		.06
ELEVATOR CONSTRUCTORS	14.54	1.345	1.085	8%+a	.035
ELEVATOR CONSTRUCTORS HELPERS	70%JR	1.345	1.085	8%+a	.035

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 as Vacation Pay Credit, also 7 Paid Holidays.

GLAZIERS	14.45	.90	.60		.01
IRONWORKERS	12.60	1.10	1.25	1.00	.05
LABORERS:					
Common laborers	10.21	.85	.65	.85	
Buggymobile oprs., mortar mixers, mason tenders	10.375	.85	.65	.85	
Plasterers tenders	10.585	.85	.65	.85	
LATHERS	9.95	.57	.50	1.00	
MARBLE SETTERS, TILE AND Terrazzo workers	14.37	.45	.40		
MARBLE, Tile and Terrazzo Workers Finishers	12.80				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Painters: (Douglas, Cass, & Sarpy Cos.,)					
Brush	$13.42		1.00		.10
Structural steel	13,77		1.00		.10
Paperhangers	13.82		1.00		.10
Spray swing stage, hazardous and sandblasting	14.02		1.00		.10
PAINTERS: (Otoe County)					
Brush & paperhangers	10.34	.65	.30		
Structural steel	10.84	.65	.30		
PLASTERERS	14.42	.85	.58		
PLUMBERS	14.59	1.20	1.25		.20
ROOFERS:					
Composition - Douglas, Cass & Sarpy Cos,	11.20	.70	.20		.01
ROOFERS (Otoe County)	10.85	.50	.30		.02
ROOFERS:					
Roofers helpers (handling roofing materials, erecting and dismantling scaffold for roofers, and removing and cleaning up old roof (Douglas, Cass, and Sarpy Cos.)	50%JR	.70	.20		.01
SHEET METAL WORKERS	15.59	.75			.09
SHEET METAL WORKERS					
Residential	10.53	.75			.09
SPRINKLER FITTERS	15.31	.95	1.40		
STEAMFITTERS	13.54	.70	.85		.15
LINE CONSTRUCTION:					
Lineman	13.18	.45	3%		4%
Cable splicers	14.16	.45	3%		4%
Truck Driver	9.52	.45	3%		4%
Equipment Operators	11.86	.45	3%		4%
Groundman	8.60	.45	3%		4%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$10.87	.85	1.40		
Group 2	10.98	.85	1.40		
Group 3	11.32	.85	1.40		
Group 4	13.06	.85	1.40		
Group 5	13.17	.85	1.40		
Group 6	13.47	.85	1.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Oilers

Group 2 - Oiler drivers (mobil truck crane)

Group 3 - Conveyors; heaters; tractors, 35 hp or under, air compressors; pump and welding machine operator

Group 4 - Bulldozers; foklifts; concrete pumps; tractors over 35 hp; one drum hoist; straddle trucks; spread oiler

Group 5 - Blades; end loaders; self-propelled scrapers

Group 6 - Two drum hoist; trenching machines; pile drivers; dredges; heavy duty mechanics; draglines; clamshells; orange peels; cranes; derricks; backhoes; winch trucks and side booms or cat booms; locomotives; firemen used on high pressure boilers in construction work; economobile; electric hammers and extractors

TRUCK DRIVERS:					
Single axle	8.645	.57	.48		
Tandem axle	8.72	.57	.48		
Lowboy, trailer	8.945	.57	.48		
Lumber carriers	9.02	.57	.48		
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 clauses (29 CFR, 5.5 (a)(1)(ii)).

federal register

Friday
August 28, 1981

Part III

Department of the Interior

Bureau of Land Management

Outer Continental Shelf; Oil and Gas Lease Sale No. 60, Lower Cook Inlet/ Shelikof Strait

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf
Lower Cook Inlet/Shelikof Strait
Oil and Gas Lease Sale No. 60

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Manager, Alaska Outer Continental Shelf (OCS) Office, Bureau of Land Management, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., September 28, 1981; or by personal delivery to the Sheraton Anchorage Hotel, 401 East 6th Avenue, the Howard Rock Ballroom, Anchorage, Alaska, between the hours of 8:30 a.m., a.h.s.t., and 9:30 a.m., a.h.s.t., September 29, 1981. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.h.s.t., September 29, 1981. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 46 FR 22270, April 16, 1981.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., a.h.s.t., September 29, 1981," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A, for bonus bid tracts. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of three decimal places after the decimal point, e.g., 50.123%, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting intimidation or unlawful combination of bidders.

4. Bidding Systems. The proposed notice of sale for sale 60 included 25 tracts to be offered under net profit share bidding with a fixed cash bonus. Meanwhile, the Supreme Court granted certiorari to review the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Energy Action Educational Foundation v. Andrus, No. 79-1633. On June 12, 1981, the Court of Appeals ruled that experimentation with the net profit share bid system is not required prior to a decision by the Supreme Court. As a result, no tracts will be offered under net profit share bidding with a fixed cash bonus for sale 60.

All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof. The following systems will be utilized.

(a) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts 60-73 through 60-85 and 60-117 through 60-152 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a 0.75 capital recovery factor. The net profit share payment shall be calculated according to Department of Energy regulations in 10 CFR 390 (45 FR 36784, May 30, 1980).

(b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $8 per hectare or fraction thereof.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.h.s.t., September 29, 1981, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See Item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on September 29, 1981, beginning at 10:00 a.m., a.h.s.t., at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, September 29, 1981, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

a. The bidder has complied with all requirements of this notice and applicable regulations;

b. The bid is the highest valid bid; and

c. The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's rental, and satisfy the bonding requirements of 43 CFR 3318 within the time provided in 43 CFR 3316.5.

11. Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510, at $2 each.

a. Outer Continental Shelf Official Protraction Diagram NO 5-1, Iliamna (approved 3/20/75).

b. Outer Continental Shelf Official Protraction Diagram NO 5-2, Seldovia (approved 3/20/75).

c. Outer Continental Shelf Official Protraction Diagram NO 5-3, Mt. Katmai (approved 7/3/75).

d. Outer Continental Shelf Official Protraction Diagram NO 5-4, Afognak (approved 7/3/75).

12. Tract Descriptions. Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice. The tracts offered for bid are as follows:

TRACT LIST
Sale 60

OCS OFFICIAL PROTRACTION DIAGRAM, Iliamna NO 5-1
(Approved 3/20/75)

Tract No.	Block No.	Description	Hectares
60-1	484	All	2304
60-2	527	All	2304
60-3	615	All	2304
60-4	659	All	2304
60-5	703	All	2304
60-6	748	All	2304
60-7	836	All	2304
60-8	880	All	2304
60-9	923	All	2304
60-10	924	All	2304
60-11	968	All	2304
60-12	1011	All	2304
60-13	1012	All	2304
60-14	1055	All	2304
60-15	1056	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM, Seldovia NO 5-2
(Approved 3/20/75)

Tract No.	Block No.	Description	Hectares
60-16	93	1/	588.65
60-17	94	All	2304
60-18	137	1/	1958.33
60-19	138	All	2304
60-20	181	All	2304
60-21	182	All	2304
60-22	186	All	2304
60-23	224	All	2304
60-24	225	All	2304
60-25	226	All	2304
60-26	228	All	2304
60-27	229	All	2304
60-28	230	All	2304
60-29	268	All	2304
60-30	269	All	2304
60-31	270	All	2304
60-32	271	All	2304
60-33	272	All	2304
60-34	273	All	2304
60-35	312	All	2304
60-36	313	All	2304
60-37	314	All	2304
60-38	315	All	2304
60-39	316	All	2304
60-40	317	All	2304
60-41	359	All	2304
60-42	360	All	2304
60-43	361	All	2304
60-44	404	All	2304
60-45	405	All	2304
60-46	487	All	2304
60-47	533	All	2304
60-48	580	All	2304
60-49	621	All	2304
60-50	625	All	2304
60-51	661	All	2304
60-52	662	All	2304
60-53	663	All	2304
60-54	664	All	2304
60-55	665	All	2304
60-56	666	All	2304
60-57	669	All	2304

1/ Seaward of the 3-geographical-mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, Seldovia NO 5-2, continued

Tract No.	Block No.	Description	Hectares
60-58	705	All	2304
60-59	706	All	2304
60-60	707	All	2304
60-61	713	All	2304
60-62	751	All	2304
60-63	756	All	2304
60-64	757	All	2304
60-65	793	All	2304
60-66	795	All	2304
60-67	800	All	2304
60-68	837	All	2304
60-69	838	All	2304
60-70	881	All	2304
60-71	882	All	2304
60-72	925	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM, Mt. Katmai NO 5-3
(Approved 7/3/75)

Tract No.	Block No.	Description	Hectares
60-73	43	All	2304
60-74	44	All	2304
60-75	88	All	2304
60-76	131	E1/2E1/2	576
60-77	132	All	2304
60-78	176	All	2304
60-79	219	NE1/4,SE1/4NW1/4, E1/2NE1/4NW1/4, S1/2 1/	1752.09
60-80	220	All	2304
60-81	263	1/	2176.96
60-82	264	All	2304
60-83	306	1/	2163.71
60-84	307	All	2304
60-85	308	All	2304
60-86	350	All	2304
60-87	351	All	2304
60-88	352	All	2304
60-89	394	All	2304
60-90	395	All	2304
60-91	396	All	2304
60-92	438	All	2304
60-93	439	All	2304
60-94	479	All	2304
60-95	480	All	2304
60-96	481	All	2304
60-97	482	All	2304
60-98	483	All	2304
60-99	522	All	2304
60-100	523	All	2304
60-101	524	All	2304
60-102	525	All	2304
60-103	526	All	2304
60-104	565	All	2304
60-105	566	All	2304
60-106	567	All	2304
60-107	568	All	2304
60-108	569	All	2304
60-109	570	All	2304
60-110	607	All	2304
60-111	608	All	2304
60-112	609	All	2304
60-113	610	All	2304
60-114	611	All	2304
60-115	612	All	2304

1/ Seaward of the 3-geographical-mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, Mt. Katmai NO 5-3, continued

Tract No.	Block No.	Description	Hectares
60-116	613	All	2304
60-117	651	All	2304
60-118	652	All	2304
60-119	653	All	2304
60-120	654	All	2304
60-121	655	All	2304
60-122	656	All	2304
60-123	695	All	2304
60-124	696	All	2304
60-125	697	All	2304
60-126	698	All	2304
60-127	699	All	2304
60-128	737	E1/2,E1/2W1/2	1728
60-129	738	All	2304
60-130	739	All	2304
60-131	740	All	2304
60-132	741	All	2304
60-133	742	All	2304
60-134	781	All	2304
60-135	782	All	2304
60-136	783	All	2304
60-137	784	All	2304
60-138	785	All	2304
60-139	825	All	2304
60-140	826	All	2304
60-141	827	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM, Afognak NO 5-4
(Approved 7/3/75)

Tract No.	Block No.	Description	Hectares
60-142	48	All	2304
60-143	90	All	2304
60-144	91	All	2304
60-145	92	All	2304
60-146	133	All	2304
60-147	134	All	2304
60-148	135	All	2304
60-149	177	All	2304
60-150	178	All	2304
60-151	221	All	2304
60-152	265	All	2304
60-153	309	All	2304

13. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, Alaska Outer Continental Shelf Office, at the first address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(a), Form 3300-1 will be amended as follows:

Sec. 4. Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of 40 percent with a 0.75 capital recovery factor, calculated pursuant to 10 CFR 390.

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations, the term DCM refers to the Deputy Conservation Manager for Offshore Field Operations, Alaska Region, U.S. Geological Survey, and the term Manager refers to the Manager of the Alaska OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the DCM has reason to believe that a site, structure, or object of historical or archaeological significance (hereinafter referred to as "cultural resource") may exist in the lease area and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement (hereinafter in this stipulation referred to as "operation"), the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys, as well as other pertinent natural and cultural environmental data, shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to affect adversely the identified location; or (2) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and the Manager for review. Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation No. 2

If the DCM, having reason to believe that significant biological populations or habitats requiring additional protection may exist within the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

Prior to the commencement of any drilling activity, or construction or placement of any structure for exploration or development activity, the lessee shall conduct site-specific environmental surveys or studies, including sampling as approved by the DCM, to characterize existing environmental conditions in an identified zone prior to oil and gas operations, and to determine the extent and composition of biological populations or habitats, and the effects of proposed operations on the populations or habitats which might require additional protective measures. The nature and extent of any such surveys or studies will be determined by the DCM on a case-by-case basis.

Based on any surveys or studies which the DCM may require of the lessee, the DCM may require the lessee to: (1) relocate the site of operations so as not to affect adversely the significant biological populations or habitats deserving protection; (2) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection; or (3) establish to the satisfaction of the DCM that such operations will not adversely affect the significant biological populations or habitats deserving protection. Based on any surveys or studies which the DCM may also require of the lessee, the DCM may require the lessee to provide for periodic sampling of environmental conditions during operations.

The lessee shall submit all data obtained in the course of such surveys or studies to the DCM, with the locational information for drilling or other activity. The lessee may take no action that might result in any effect on the biological populations or habitats surveyed, until the DCM provides written directions to the lessee with regard to permissible actions.

In the event that important biological populations or habitats are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the DCM provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 3

The lessee shall include in any exploration and development plans submitted under 30 CFR 250.34 a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DCM. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources, to include bird and sea mammal rookeries, to identify the importance of avoidance and non-harassment of wildlife resources.

The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating and shall include information concerning avoidance of conflicts with commercial fishing operations and with commercial fishing gear.

The lessee shall also provide for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 4

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of Federal, State, and local governments and industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms, geohazards, fisheries trawling gear, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DCM.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act (46 U.S.C. 391a) and the Port and Tanker Safety Act of 1978 (33 U.S.C. 1221).

Stipulation No. 5

(To be included only in the leases resulting from this sale as specified in 4(a) Bonus Bidding with a Fixed Net Profit Share.)

The net profit share payment specified in section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16-2/3 percent of the production saved, removed or sold from the lease area may be taken in amount, except as provided in Sec. 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

Stipulation No. 6

(A) Well and Pipeline Stipulation. Subsea wellheads and temporary abandonments, or suspended operations that leave protrusions above the seafloor shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DCM (Deputy Conservation Manager, Field Operations, Alaska Region, USGS). The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ± 50 feet (15.25 m) at 200 miles (322 km).

(B) All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes, or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

14. Information to Lessees. Bidders are advised that during the conduct of all activities related to leases issued as a result of this proposed lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, as amended, and International Treaties. Violations of these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate.

The lessee or his contractors should be aware that disturbance of wildlife could be determined to constitute harassment, and thereby be in violation of existing laws. Behavioral disturbance of most birds and mammals found in or near the sale 60 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird colonies or marine mammal rookeries. Therefore, in concurrence with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed wildlife or known wildlife concentration areas. Human safety will take precedence at all times over distances recommended herein for avoidance or disturbance of wildlife. Maps locating major wildlife concentration areas are available through the DCM and appropriate resource agencies.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which might be established, among other reasons, for the purpose of protecting commercial fisheries. Bidders are advised that the United States reserves the right to designate necessary fairways through leased tracts pursuant to the Port and Tanker Safety Act of 1978 (33 U.S.C. 1221).

Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to

the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

Bidders for these tracts should recognize that the Department of Energy is authorized, under section 302(b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal Oil and Gas Leases.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been assigned a deferred effective date of August 26, 1981, pending review of those regulations (see Federal Register of July 14, 1981, at 46 F.R. 36144). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1) regarding the aggregate value of contracts over a 12-month period (see the Federal Register of December 30, 1980, at 45 F.R. 86231-86232).

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Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

Bidders are advised that the State of Alaska will be consulted by the BLM and USGS throughout the stages of OCS development. In addition to State involvement in the Intergovernmental Planning Program (IPP), the Scientific Committee of the OCS Advisory Board, and the review of exploration and development plans, the DCM may involve the State in the implementation of Stipulation 2.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Alaska Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Robert Burford
Director, Bureau of Land Management

Approved: AUG 26 1981

James G. Watt
Secretary of the Interior

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf, Lower Cook Inlet/Shelikof Strait

Notice of Leasing Systems, Sale No. 60

Sec. 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. 60, tracts will be offered under the following two bidding systems as authorized by Sec. 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with a fixed net profit share on 49 tracts, and (2) bonus bidding with a fixed 16-2/3 percent royalty on 104 tracts.

(1) Bonus Bidding with Fixed Net Profit Share. This system is authorized by Sec. 8(a)(1)(D) of the OCS Lands Act, as amended. This system was established by Department of Energy (DOE) regulations effective May 14, 1980 (45 Fed. Reg. 36784 (May 30, 1980)). This system has been used in six previous OCS sales. The profit share system designed for this sale may increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It may also increase the volume of production because certain allowable capital costs can be deducted prior to any liability for profit share payments. In addition, the profit share system may foster the development of marginal fields when compared to a royalty system since the Government shares more of the risk and the lessees' incremental costs are lower in the presence of a capital recovery.

A profit share system which uses cash bonus as the bid variable avoids percentage bids at high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

For 49 tracts, firms will be permitted an additional recovery factor of 0.75 over their actual allowable costs before any profit share payments are due. The profit share rate selected for this sale is 40 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, Government receipts, gross production, minimal economic tract sizes, and particularly on the incentive to alter the production profile.

(2) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration. The use of this system will provide a data base with which to compare the performance of the alternative systems.

(B) Designation of Tracts. The selection of tracts to be offered under the two systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) A sufficient number of tracts was needed to permit valid statistical analysis while limiting the risks of losses caused by unforeseen

problems which could arise in the use of any new bidding system. The number of tracts must also be consistent with the requirements of Sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

(3) The range and distribution of the characteristics of tracts were to be comparable for statistical purposes. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the location of tracts across trends.

The specific tracts to be offered under each system are as follows.

(a) Bonus Bidding with a Fixed Net Profit Share--Tracts 60-73, 60-74, 60-75, 60-76, 60-77, 60-78, 60-79, 60-80, 60-81, 60-82, 60-83, 60-84, 60-85, 60-117, 60-118, 60-119, 60-120, 60-121, 60-122, 60-123, 60-124, 60-125, 60-126, 60-127, 60-128, 60-129, 60-130, 60-131, 60-132, 60-133, 60-134, 60-135, 60-136, 60-137, 60-138, 60-139, 60-140, 60-141, 60-142, 60-143, 60-144, 60-145, 60-146, 60-147, 60-148, 60-149, 60-150, 60-151, and 60-152.

(b) Bonus Bidding with a 16-2/3 Percent Royalty--All remaining tracts.

Director, Bureau of Land Management

Approved: AUG 26 1981

James G. Watt
Secretary of the Interior

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Reader Aids

Federal Register

Vol. 46, No. 167

Friday, August 28, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, AUGUST

39431-39560.....3
39561-39808.....4
39809-39982.....5
39983-40180.....6
40181-40500.....7
40501-40670.....10
40671-40768.....11
40769-40858.....12
40859-41018.....13
41019-41486.....14
41487-41752.....17
41753-42058.....18
42059-42234.....19
42235-42436.....20
42437-42650.....21
42651-42830.....24
42831-43034.....25
43035-43128.....26
43129-43370.....27
43471-43646.....28

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

51.....41753
470.....39431

3 CFR

Proclamations:

4851.....40501
4852.....42235
4853.....42831

Executive Orders:

10033 (Amended by EO 12318).....42833
10253 (Amended by EO 12318).....42833
11541 (Amended by EO 12318).....42833
11961 (Amended by EO 12318).....42833
12013 (Amended by EO 12318).....42833
12285 (Amended by EO 12317).....42241
12286 (Revoked by EO 12316).....42237
12316.....42237
12317.....42241
12318.....42833

5 CFR

Ch. XIV.....40769
531.....43371
410.....40671
531.....41019
540.....41019
752.....42437
831.....42835
1201.....42437
2422.....40672
2423.....40672
2425.....40672
2429.....40672
2442.....40672

Proposed Rules:

531.....41077
1201.....40702

7 CFR

2.....40675
68.....39608, 41020
250.....41472
271.....43020
272.....39561, 43020
273.....39561, 43020
301.....42072
331.....41021, 42438
417.....42837
722.....41754
724.....42439
730.....42837
800.....43032
801.....40676, 42440
907.....42838
908.....39983, 40859, 42243, 42838, 43129
910.....40202, 41029, 42441, 42838, 43371
916.....40503
917.....40503
919.....40503
921.....40503
922.....40503
923.....40503
924.....40503
926.....40206
930.....40503
945.....40503
946.....40503
947.....40503
948.....40503
953.....40503
958.....40503
967.....40503
985.....40503, 43129
989.....39983, 41754
993.....40503
1002.....41755
1007.....43371
1011.....43371
1030.....41029, 43371
1032.....43371
1046.....43371
1049.....43371
1050.....43371
1062.....43371
1064.....43371
1065.....43371
1068.....43371
1071.....43371
1073.....43371
1076.....43371
1079.....43371
1094.....43371
1096.....43371
1098.....43371
1099.....43371
1102.....43371
1104.....43371
1106.....43371
1108.....43371
1120.....43371
1126.....43371
1131.....43371
1132.....43371
1138.....43371
1421.....40859
1423.....41487
1427.....42243
1701.....39563, 40678
1822.....40769
2851.....41757
2852.....39563, 41759
2856.....39566, 40678, 42441

Proposed Rules:

Ch. IX.....40027

27 42490
28 ..... 42490, 42492
29 39438
61 42490
68 43056
102 42486
277 40764
301 41519
921 40892
1004 42486
1011 39440
1065 42074
1079 40703
1098 42871
1207 40769
1446 41521
2852 ..... 41077, 42487

Proposed Rules:
2852 43431

8 CFR
100 39573
238 ..... 40504, 40505

9 CFR
73 40865
78 41031
92 39809
94 43131
307 43406
310 43406

Proposed Rules:
71 43175
318 42463
381 42463

10 CFR
2 39573
205 39984
436 40678
780 39581

Proposed Rules:
50 41786
51 39440
95 39610
417 42075
500 39442
501 39442
503 39442
504 39442
505 39442

12 CFR
203 40679
210 42059
211 39810
217 42060
265 42441
303 40505
532 ..... 42250, 42651
545 41763
613 43410
614 43410

Proposed Rules:
7 40520
308 43431
526 42273
532 42273
546 42274
561 42274
563 42275
563c 42274, 42275
571 42274
614 ..... 40027, 40028
615 40029
1204 ..... 40773, 40892

13 CFR

Proposed Rules:
120 41523
124 ..... 39611, 42681

14 CFR
11 41488
39 ..... 39431, 39990–39992, 40506–40508, 40865–40868, 41488–41490, 42252, 42254, 42651–42653, 43131–43134
71 ..... 39432–39434, 39993–39995, 40509, 40510, 40869–40871, 41491, 42255, 42256, 43135
75 39995–39997
91 ..... 39606, 39997, 40885, 42256
97 ..... 39999, 42653
207 43035
208 43035
221 42872
250 ..... 42442, 42872
399 42445

Proposed Rules:
Ch. I 42278, 43176
25 ..... 39558, 40527, 42681
39 ..... 40031, 41524, 42279, 42280
61 ..... 40529, 40646
63 40529
65 40529
67 40529
71 ..... 39443, 39444, 40032–40035, 40535, 40894, 40895, 42281–42283, 43177
73 40034
75 ..... 40035, 42283
121 ..... 40527, 42681
145 40529
187 40529
221 ..... 40703, 43057
223 40896
250 40703
298 43057
399 42075

15 CFR
369 40001
385 39585
399 39585

16 CFR
13 ..... 40001, 40770–40772, 43135, 43136
455 ..... 41328, 43364

Proposed Rules:
13 ..... 39833, 40037, 40040, 40774, 42681
457 39845
460 41080
1204 ..... 41081, 42284
1306 42285
1508 43452
1509 43452

17 CFR
200 ..... 40001, 40003
201 43136
210 ..... 40872, 43411
211 43411
230 ..... 41766, 42655
238 41753
239 ..... 41766, 41753
240 40872
276 41771

Proposed Rules:
15 42463
17 42463
18 42463
201 ..... 41971, 42470
229 ..... 41925, 42001
230 ..... 41791, 41971, 42001–42042, 42470
239 ..... 41791, 41902, 42029
240 ..... 41971, 42042, 42470, 43181, 43457, 43459
249 ..... 42042, 41753
250 42042
259 41753
260 42042
269 41753
274 41753
279 41753
301 41753

18 CFR
1 39846
154 42260
157 42261
260 42261

Proposed Rules:
2 39445
3 39846
35 39445
159 42075
271 ..... 40043, 40044
282 ..... 41034, 41748
375 39846

19 CFR
148 42656
177 42446
200 ..... 41036, 43137
353 39587
355 39587

20 CFR
404 42062
410 ..... 39588, 41492
416 42062

Proposed Rules:
404 42683

21 CFR
103 41037
136 43413
137 43413
176 ..... 39589, 43414
193 ..... 39827, 42063
444 42447
520 ..... 41038, 41040, 42448
522 ..... 41041, 42841
540 43414
558 41041
680 42448
573 43415
1312 41775

Proposed Rules:
203 42470
310 43465
444 41814
561 42683
1030 41102
1308 ..... 39848, 42285

22 CFR
41 41776
220 42841

23 CFR
450 40154
490 42266
650 40154

24 CFR
81 39434
300 39810

Proposed Rules:
Subtitle A 41708
Subtitle B 41708
3280 43466

25 CFR
258 40510

26 CFR
1 ..... 39589, 43035
7 43035
15a 43036
16A 41043
20 43036

Proposed Rules:
1 ..... 40774, 42082, 42285, 42286
6a 42286

27 CFR
9 ..... 39811, 40045, 40873, 41492
240 39812
252 39812

Proposed Rules:
4 39849
9 ..... 39852, 43468
240 39853
252 39853

28 CFR
2 42842
20 41494
41 ..... 40686, 40687

29 CFR
1 41043
4 41044
5 41043
6 41045
1601 43037
1910 ..... 42622, 43416
1952 ..... 41046, 42842–42846
2200 43137

Proposed Rules:
1 ..... 41444, 42872
4 ..... 41380, 42872
5 ..... 41456, 42872
6 41428
8 41438
1910 ..... 40704, 42639

30 CFR
200 42266
231 42266
270 42266
700 40650
716 41046
722 41702
785 41046
808 42063
843 41702
900 43041
913 43041

914.....43041
917.....43041
935.....43041
942.....43041
Proposed Rules:
Ch. II.....40706
Ch. VII.....41525, 42684
250.....42286, 42287
700.....40652
715.....39854
730.....40706
731.....40706
732.....40706
808.....42082
816.....39854
817.....39854
901.....40049
904.....42873
906.....39855
916.....42874
917.....40047
925.....42875
931.....40050

31 CFR

51.....41047
203.....42267
535.....42063

32 CFR

54.....39817
251.....39817
505.....42847
581.....42267
Proposed Rules:
70.....42876, 43185
210.....42083
806b.....43187
989.....41527

33 CFR

1.....42268,
95.....40873
100.....39435, 42657
114.....42268
115.....42268
116.....42268
117.....39436
165.....41494, 42657
204.....43043
207.....43044
Proposed Rules:
100.....40057
110.....40057
117.....40057
153.....42288
161.....42288
175.....42288

34 CFR

208.....42847
209.....42847
240.....42847
280.....42847
295.....42847
296.....42847
345.....42847
346.....42847
347.....42847
419.....42847
440.....42847
441.....42847
442.....42847
443.....42847
444.....42847
614.....42658
629.....39778
630.....39784
631.....39784
632.....39784
633.....39784
634.....39784
635.....39784
636.....39804
647.....42847
752.....42847
753.....42847
755.....42847
757.....42847
758.....42847
763.....42847
765.....42847
766.....42847
767.....42847
768.....42847
769.....42847
774.....42847
793.....42847
797.....42847
Proposed Rules:
614.....42685

36 CFR

7.....39817, 40874
60.....43045
61.....43045
62.....43045
63.....43045
64.....43045
65.....43045
66.....43045
67.....43045
68.....43045
69.....43045
71.....43045
72.....43045
222.....42448
801.....42426
1201.....43045
1202.....43045
1204.....43045
1205.....43045
1207.....43045
1208.....43045
1212.....43045
1226.....43045
1227.....43045
1228.....43045
Proposed Rules:
7.....43471
221.....40706
1190.....39764

38 CFR

2.....41495
36.....42848, 42849
Proposed Rules:
1.....43058
3.....42877

39 CFR

2.....40876
111.....41047
224.....40876
310.....41496
3000.....42064
Proposed Rules:
111.....43187

40 CFR

35.....39590, 40511, 43417
52.....39818, 39822, 40003–40006, 40512, 40688, 41050–41054, 41496–41499, 41777–41780, 42064, 42269, 42290, 42450, 42658, 43045, 43137–43152, 43418–43424
62.....41055, 41781
65.....43154
81.....40007, 41056, 41783, 41784, 43155, 43425
122.....43156
123.....40689
146.....43156
180.....39824–39827, 42065, 42066, 42659, 42850, 43163, 43164
204.....41057
205.....41057
211.....41057
261.....40170
762.....42851
Proposed Rules:
35.....42472
52.....39611–39614, 39861–39864, 40536, 40774, 41103, 41814, 42289, 42292, 43188
57.....42084
60.....41817, 42878
62.....41814
81.....41814, 41818, 42292, 42293, 42878
122.....40896, 43472
123.....41103, 43472
124.....43472
146.....43472
180.....39865, 42088, 42089, 42298, 42299, 42685
204.....41104
205.....41104
211.....41104
260.....40896
261.....40058
264.....40896
434.....39456
762.....42880
773.....40898
796.....42472

41 CFR

Ch. 18.....40009, 40019
Ch. 101...39436, 40690, 42067, 42270, 43165
3.....42852
7.....42852
9.....42853
15.....42852
20.....42852
14–3.....40876
60–1.....42865
60–2.....42865
60–4.....42865
60–20.....42865
60–30.....42865
60–50.....42865
60–60.....42865
60–250.....42865
60–741.....42865
101–4.....39593
101–41.....42660
101–42.....39590
101–43.....39590
101–45.....39590
101–46.....39590
101–48.....39590
Proposed Rules:
60.....42490
60–1.....42968
60–2.....42968
60–4.....42968
60–20.....42968
60–30.....42968
60–50.....42968
60–60.....42968
60–250.....42968
60–741.....42968
101–41.....42686

42 CFR

36.....40692
64a.....39976
405.....41059, 41061, 42669
435.....42067
440.....42669
447.....42669
Proposed Rules:
442.....42698

43 CFR

2.....42067
5440.....42673
5450.....42673
9210.....42828
Proposed Rules:
2800.....39968
2880.....39964

44 CFR

61.....42674
64.....39596, 40693, 40695, 41500, 41502
65.....39597
67.....39829, 41063–41074, 42866, 43047
70.....41075, 41076
Proposed Rules:
67.....39456–39459, 39615, 39621, 41110–41121, 42882, 43061

45 CFR

85.....40686, 40696
1069.....42271

46 CFR

157.....41503
502.....43054
512.....42869
514.....42869
524.....40697
527.....42869
528.....42869
531.....42869
533.....42869
537.....42869
543.....42869
544.....42869
552.....42869
Proposed Rules:
Ch. I.....39460
56.....42300
73.....42300
74.....42300
531.....43472
536.....43472, 43474

47 CFR

0 43166
73 ..... 39603–39605, 40020–40024, 40698–40700, 40878, 41076, 41504–41508, 42675, 43166–43173
95 42461
81 42677

Proposed Rules:

Ch. I 40899, 43475
1 43068
2 ..... 40536, 40904, 42473
21 40904
22 40536
23 42473
63 40902
67 ..... 40707, 41819
68 40902
73 ..... 39627, 39629, 40059, 40536, 40707–40710, 40776, 41534, 41820, 42090, 42474–42483, 42701, 42703, 43190–43217
74 ..... 40536, 41820
87 ..... 39630, 40904
90 ..... 39632, 40904, 41535
94 ..... 40904, 42473

48 CFR

Proposed Rules:

7 43218
16 42303
42 43218
51 43218

49 CFR

1 ..... 42461, 42677
3 42272
172 42678
179 42678
512 40513
525 40513
553 40513
555 40513
571 41510
575 41514
613 40154
1033 ..... 40513, 43427
1043 41516
1100 40516
1127 43429
1128 40772

Proposed Rules:

100—199 (Ch. I) 40540
Ch. II 39461
Ch. X 42705, 43219
175 40540
571 43219
575 40541
1016 41825
1047 41831
1201 ..... 40154, 40778
1240 40154
1241 40154

50 CFR

13 42679
216 43430
17 ..... 40025, 40664, 42887
20 ..... 40879, 42642
21 ..... 42068, 42679
371 39829
611 ..... 39831, 43174
651 39829
652 40884
661 42070
674 ..... 40518, 40701

Proposed Rules:

17 42887
20 41736
654 40062
661 ..... 39634, 42485

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSIS
DOT/FHWA	USDA/FSIS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/MA	MSPB/OPM		DOT/MA	MSPB/OPM
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.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 26, 1981

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with Lexington Technical Institute.

WHAT: Special briefing (approximately 2½ hours) to present:

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2. The relationship between Federal Register and the Code of Federal Regulations.
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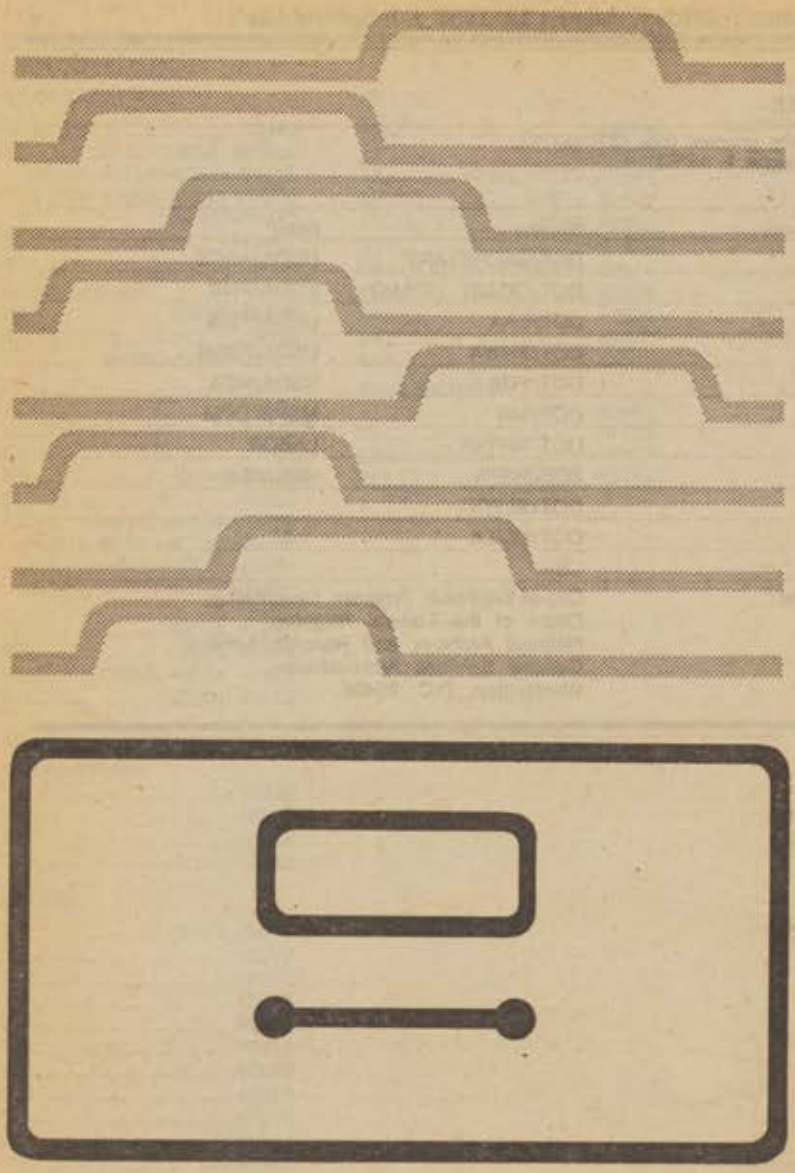
WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: September 17 at 9:00 a.m.

WHERE: Room 215, Lexington Technical Institute, Cooper Drive, Lexington, Ky.

RESERVATIONS: Call Martha Birchfield, (606) 258-4919.



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